

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

09-CR-00466 (BMC)

United States Courthouse
Brooklyn, New York

4
5 -against-

December 13, 2018
9:30 a.m.

6 JOAQUIN ARCHIVALDO GUZMAN
7 LOERA,

8 Defendant.
9 -----x

10 TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
11 BEFORE THE HONORABLE BRIAN M. COGAN
12 UNITED STATES DISTRICT JUDGE
13 BEFORE A JURY

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CIFUENTES VILLA - DIRECT - MR. FELS

1 (In open court.)

2 (Open court; no jury present.)

3 (Time noted: 9:38 a.m.)

4 THE COURT: Good morning. Let's have the jury in,
5 please.

6 (WHEREUPON, at 9:39 a.m., the jury entered the
7 courtroom.)

8 THE COURT: Everyone can be seated. Good morning,
9 ladies and gentlemen.

10 Let's continue with direct examination.

11 MR. FELS: Thank you, Your Honor.

12 (Witness takes the witness stand.)

13 JORGE MILTON CIFUENTES VILLA, called as a witness, having been
14 previously first duly sworn/affirmed, was examined and
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. FELS:

18 Q Mr. Cifuentes, did you carry a gun when you would go to
19 meetings to discuss drug shipments?

20 A In Colombia, yes, I did, sir. But not in Mexico.

21 Q Now let's talk about a person named Patricia Monsalve.
22 Who is she?

23 A She was my brother Francisco Ivan Cifuentes' girlfriend.

24 Q And do you know what happened to her, ultimately?

25 A She was arrested, she was extradited to the United

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1 States, and she served a sentence here.

2 Q For what?

3 A For drug trafficking.

4 Q Did you ever have any conversations with your brother
5 Alex Cifuentes about who Patricia was sending cocaine to?

6 A Yes, sir, to Don Joaquin Guzman Loera.

7 Q And after Patricia got arrested and expedited, what
8 concerns, if any, did you have about what she might do when
9 she got to the United States?

10 A Well, I was worried that she would cooperate with the US
11 government and give them information about my illegal
12 activities as well as my family's.

13 Q So what did you do?

14 A Well, I had Patricia's son, my nephew Carlitos, nearby,
15 and I was trying to listen to what information he was getting,
16 what information he could get.

17 Q Did you get any information out of your nephew?

18 A No, sir.

19 Q Did you interfere in any way with Patricia's cooperation?

20 A No, sir.

21 Q Let's go back to Telmo Castro, the Ecuadorian military
22 official. What happened to him?

23 A Well, he was arrested in Ecuador when they did the
24 seizure of the 8 tons.

25 Q And did you ever have any discussions with Don Joaquin

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1 Guzman and Alex about Telmo Castro?

2 A Yes, sir. We bribed the Ecuadorian government to get him
3 released.

4 Q For what purpose?

5 A To recruit him so that he would continue working --
6 working in drug trafficking with us.

7 Q Did you personally play a role in bribing the Ecuadorian
8 officials to get Telmo Castro out of jail?

9 A Yes, sir, I was the one who got the attorneys, the
10 contacts, and we paid \$700,000 from Don Joaquin's money.

11 Q Now, we have gone over a couple of cell phone calls. Did
12 you use another communication device to further your drug
13 trafficking activities?

14 A Well, sir, yes, we had a cryptography system, and we also
15 used text messages.

16 Q And where did you get those devices from?

17 A The Blackberrys are the text devices, and they use a text
18 system that's Canadian and a cryptography system that's
19 Canadian.

20 Q And who gave you those devices?

21 A My brother Alex got them for me from Tony, a Canadian
22 guy.

23 Q And did you receive anything from Christian?

24 A Yes, sir, a communication device, also.

25 Q Okay. You mentioned this Canadian name, Tony. Who is

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1 he?

2 A Tony was a Canadian drug trafficker who was interested in
3 doing a drug deal from Venezuela using a sailboat.

4 Q And did you -- who introduced you to Tony?

5 A My brother Alexander, he sent him to me to Venezuela when
6 I was in hiding.

7 Q Did you come to an agreement with Tony about shipping
8 drugs to Canada?

9 A Yes, sir.

10 Q And who was in this partnership?

11 A Stephen Tello, for Tony, Don Joaquin Guzman, my brother
12 Alexander Cifuentes, and me.

13 Q Did Alex Cifuentes ever explain to you how he would get
14 the drugs into Canada?

15 A Yes, sir. After I got the cocaine and the sailboat to
16 Don Joaquin and Alex at a property that was on the border with
17 Canada and the United States that had access to the ocean.

18 Q So what is the significance of having property on both
19 sides of the border?

20 A Well, it is a lot easier when a Canadian sailboat comes
21 with a Canadian flag, and come in to bring the cocaine into
22 American territory, it is easy.

23 Q But what's the significance of the properties being on
24 both sides of the border?

25 A Like I said, the ease of introducing the drugs, the

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1 cocaine into the United States.

2 Q Now, did Alex ever introduce any customers that you had
3 to Don Joaquin?

4 A Yes, sir.

5 Q Who?

6 A For example, La Serie, Dominican baseball player.

7 Q You said he was a customer of yours, initially?

8 A Yes. In the '90s, he was in charge of sales. He sold my
9 product here in New York. He had the capability of moving one
10 ton of cocaine here in New York in a week, but that -- I am
11 talking 1990s. This -- we are talking different volumes, a
12 different time.

13 Q So how do you know that Alex introduced La Serie to Don
14 Joaquin Guzman?

15 A Alex asked for my authorization to introduce him to Don
16 Joaquin.

17 Q When?

18 A When?

19 Q Yes. What time frame.

20 A I don't know. 2008, 2009, I don't know the exact date.
21 I don't know what you are referring to, what time.

22 Q Let me ask it a different way. For what purpose was Alex
23 asking you for permission to introduce La Serie to Don
24 Joaquin?

25 A Well, to help with the sale of cocaine that we were

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1 sending from Ecuador.

2 Q And what happened?

3 A He introduced him.

4 Q And did that create an issue with Alex after Alex
5 introduced La Serie to Don Joaquin Guzman?

6 A Well, they worked together for a while, and then Alex
7 starts complaining to me that Don Joaquin is now working and
8 communicating directly with La Serie and -- well, he was
9 complaining that they pushed him aside.

10 Q Now, sir, were you in the United States at some point in
11 the 1990s?

12 A Yes, sir.

13 Q Did you get arrested in Houston, Texas?

14 A Yes, sir.

15 Q What did you get arrested for?

16 A Money laundering and drug trafficking.

17 Q And how did you get out of those charges?

18 A The charges were dismissed.

19 Q And did you do something that helped get those charges
20 dismissed?

21 A I think at that time the laws were different in Texas,
22 but this is -- the issue is that they didn't catch me with
23 anything red-handed so they seized \$3 million at a house and
24 some handwritten accounting notes that I had made of -- for
25 two tons, and they -- so when they do a handwriting test on

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1 me, well, I'm normally right-handed, but I took the test with
2 my left hand on this occasion so they just couldn't find any
3 familiarity with the form, so the charges were dismissed.

4 Q Now, sir, when you came to the United States, you agreed
5 to cooperate, correct?

6 A Yes, sir, that's true.

7 Q Did you sign an agreement with the United States of
8 America?

9 A Yes, sir.

10 Q I'm showing you, just for identification purposes, marked
11 as Government Exhibit 3500-JMCV-4. Sir, directing your
12 attention to page 6 --

13 A Yes, sir.

14 Q -- which is JMCV-000047, and page 7, which is
15 JMCV-000048. Do you recognize your signature?

16 A Yes, sir.

17 Q And can you read the date?

18 A Is the first number the month or the day?

19 Q Well, let's take a look at the top. Can you read that --
20 interpret it in Spanish?

21 A Well, that's my handwriting, my own handwriting, with my
22 right hand, March 3, 2015.

23 MR. FELS: Okay. Your Honor, we would seek to move
24 this into evidence.

25 MR. LICHTMAN: No objection.

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1 THE COURT: Received.

2 (Government Exhibit 3500-JMCV-4, was received in
3 evidence.)

4 MR. FELS: And publish to the jury.

5 BY MR. FELS:

6 Q Sir, do you recognize what this document is, 3500-JMCV-4?

7 A Yes, sir, that's my cooperation agreement with the
8 government and the charges against me.

9 Q And those -- there's an Exhibit A. Do you know what this
10 document is?

11 A The charges.

12 Q Take a look at -- sir, is this your consent preliminary
13 order of forfeiture money judgment?

14 A Yes, that's correct. It is in English, so.

15 Q Okay. Well, sir, let -- that's a good question. My next
16 question was, were these documents translated for you in
17 Spanish before you signed them?

18 A Yes, sir.

19 Q Have you reviewed these documents recently?

20 A Yes, sir.

21 Q And did you review them at the time that you signed them?

22 A Yes, sir.

23 Q Now, based on your understanding of your agreement with
24 the government, what were you required to do with respect to
25 cooperating with the government?

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1 A Well, I have to provide all my criminal history, all my
2 activities, all the people with whom I committed these
3 criminal activities, I have to forfeit my assets, bank
4 accounts, and I have to help locate them, and that's it, and
5 be at the government's disposal so that they can use me for
6 whatever they need for me to talk about the case.

7 Q And, sir, have you been sentenced yet?

8 A No, sir.

9 Q What sentence are you facing now?

10 A Well, I arrived in the US with -- at level 38 in the
11 guidelines. According to my attorney, that means that I face
12 ten years to life. After I confessed to my violence and
13 weapons, I went up from level 38 to level 40 -- 48 --
14 interpreter correction -- 38 to 48. And in the guidelines,
15 that means life to life. But since I was extradited from
16 Colombia, the maximum sentence I can get from the United
17 States government is 40 years.

18 Q What are you hoping to receive by cooperating?

19 A Well, I am hoping to get a sentence reduction. I am 52
20 years old, so a life sentence means life for me.

21 Q And what's your understanding of what you need to do
22 today and yesterday and the day before, when you testified, in
23 order to be eligible for a sentencing reduction?

24 A Tell the truth about all the facts.

25 Q What's your understanding about whether you would receive

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1 a larger or smaller reduction based on the outcome of this
2 trial?

3 A No. My understanding is that I have nothing to do with
4 the result of this trial. I am here to provide information
5 about some facts in support of my testimony from five years
6 ago -- statements from five years ago.

7 Q And you mentioned that there is a limit of 40 years. Do
8 you know why there is a limit of 40 years on your sentence?

9 A I am not a law specialist, but I understand that in
10 Colombia the maximum sentence would be 40 years. So there
11 should be some sort of a parity, I guess, between the law.

12 MR. LICHTMAN: Objection.

13 THE COURT: He's giving his understanding. It
14 doesn't mean it's right.

15 Go ahead.

16 BY MR. FELS:

17 Q Now, I want to talk about some benefits that your family
18 has received or might receive in the future. What is your
19 understanding of what the government has agreed to do with
20 your family?

21 A Oh, well, nothing. I did ask them for the favor of
22 helping me bring my family to the United States, but they
23 haven't done absolutely anything. And I really don't have a
24 lot of hope that they would do it.

25 Q Well, has the government explained to you that they would

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1 attempt to help move your family -- some of your family
2 members to the United States?

3 A Yes, sir.

4 Q Have there been any promises made in that regard?

5 A No, sir.

6 Q I want to get back to the end of the Ecuador story.
7 Remember we played some calls yesterday about the situation
8 that your family was facing now that the 8 tons of cocaine had
9 been seized. Do you remember those calls?

10 A Yes, sir.

11 Q The beginning of 2010, couple of months after the
12 seizure, where is your brother Alex living?

13 A He was in Mexico, at the golden triangle with Don
14 Joaquin.

15 Q And did you have -- did you and your family have concerns
16 over the fact that he was still up in Mexico?

17 A Yes, sir.

18 Q And how was the situation with Alex's safety resolved
19 with Don Joaquin Guzman?

20 A Well, Don Joaquin was tense because of the loss of the
21 cocaine, and so he asked me to get him the money or actually
22 the cocaine for the next trip.

23 Q And what was your response?

24 A Well, I told him to just let me look into it, that I
25 would probably be able to get him three tons, and he said,

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1 okay, and I am going to send my nephew Tomas so he can take a
2 look at them, and then I told him no, things are not going to
3 go the way you want them to go. And I said, don't send me --
4 don't send Tomas over to me, you know, I'm going to tell you
5 the moment that I am ready, I'm going to tell you so they can
6 send that to you.

7 Q Okay. Did you, in fact, send them the three tons?

8 A No, sir.

9 Q So how did you resolve the situation with Don Joaquin and
10 Alex?

11 A Well, you know, Don Joaquin resolved it. I mean, he gets
12 Tomas in touch. He, Tomas, had been in touch with the
13 guerilla, and they managed for him to get a credit, and then
14 he asked me to place my properties as collateral for the
15 credit line that he had gotten for the cocaine.

16 Q Who asked you to put your properties as collateral?

17 A Don Joaquin Guzman Loera.

18 Q So what did you do -- first of all, did you agree?

19 A Well, of course. My brother was living with him.

20 Q And what do you mean by that?

21 A Well, I feared for my brother's safety.

22 Q So what did you do as a first step to put this plan in
23 motion to get your properties turned over as collateral?

24 A Well, I said to my accountant, Marco Tulio Flores, for
25 him to show some of the properties in Cali so that these

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1 people could see which properties they wanted to use as
2 collateral for that credit.

3 Q And did you have a conversation with your accountant?

4 A Yes, sir.

5 MR. FELS: Ladies and gentlemen, we have another
6 transcript. You all should have your binders. If you would
7 all please turn to Government Exhibit 606I-3FT. We are just
8 going to play a short clip, a little over a minute, from the
9 start of the call.

10 (Audio played.)

11 BY MR. FELS:

12 Q All right. So going back to page 2, who are these two
13 individuals in the call?

14 A My accountant, Marco Tulio Flores, and I.

15 Q And what date is this call?

16 A May 18, 2010.

17 Q All right. So just summarize, what's going on in this
18 call?

19 A Well, Marco Tulio called me, and he told me that he had
20 already met with the people, we have to get the collateral
21 because, I mean, in exchange for the credit, and that he had
22 already showed them that plot of land of Pance, which is a
23 plot that could be built on, and it is in an area right
24 outside of Cali, Colombia.

25 Q What was that lot -- oh, I'm sorry. Go ahead.

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1 A No, please go ahead.

2 Q What was that lot worth at the time?

3 A Well, in my books, I would say it was around \$5 million.

4 Q And in the bottom of page 2, Marco Tulio said, it seems
5 strange to me, and I gave them that Pance, because they would
6 only talk of two and a half.

7 A Well, yes, I had prepared Marco Tulio because -- for him
8 to give the collateral. In fact, we had to give a collateral
9 of about \$8 million. And these people were actually very
10 satisfied with that plot of land in Pance because they said
11 that they only needed collateral worth 2.5 million.

12 Q So who is it that Marco Tulio was showing the property
13 to?

14 A Well, he was showing that to the cocaine suppliers that
15 Don Joaquin had found, and also to Tomas, his nephew.

16 Q Whose nephew?

17 A Don Joaquin Guzman's nephew.

18 Q Now, Mr. Cifuentes, were you asked to review another
19 video and two photographs to see if you could recognize the
20 people in the video in the two photographs?

21 A Yes, sir.

22 Q Were you able to recognize some of the people in the
23 video in the two photographs?

24 A Yes, sir.

25 Q And, again, just for the witness. Showing you what's

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1 been marked as Government Exhibit 703A for identification
2 purposes, do you recognize anything on this disc?

3 A Yes, sir. I recognize my initials, which I wrote in
4 there, as well as the date of December 10, 2018.

5 Q And what's the significance of those initials and your
6 date?

7 A Well, that this is the same disc that I actually reviewed
8 with the information of the video and the pictures.

9 MR. FELS: Your Honor, we move to admit Government
10 Exhibit GX 703A.

11 MR. LICHTMAN: No objection.

12 THE COURT: Received.

13 (Government Exhibit 703-A, was received in
14 evidence.)

15 MR. FELS: And if we can play the video on this
16 disc.

17 (Video played.)

18 BY MR. FELS:

19 Q Sir, you see there's a man with glasses on the left. Do
20 you recognize that person?

21 A Yes, sir.

22 Q Who is that?

23 A That's Marco Tulio Flores Sepulveda. That's my
24 accountant.

25 Q And he's talking to a man here, appears to be a red

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1 shirt, his back to us. Do you see that individual's face?

2 A No, sir.

3 Q Showing you what's been -- let's just make it this way.

4 I show you for identification purposes the two
5 photographs that you talked about before, Government Exhibit
6 GX 703A-3. Do you recognize this person on the left with the
7 glasses?

8 A Yes, sir. Marco Tulio Flores.

9 MR. FELS: Your Honor, move to admit.

10 MR. LICHTMAN: No objection.

11 THE COURT: Received.

12 (Government Exhibit 703A-3, was received in
13 evidence.)

14 BY MR. FELS:

15 Q Showing the jury what's GX 703A-3. Again, could you draw
16 your finger and circle around Marco Tulio, the accountant.

17 A (Witness complying).

18 Q Thank you.

19 And then I am going to show you, just for the
20 witness, also. Do you recognize the man in the red shirt in
21 Government Exhibit GX 703A-2?

22 A Yes, sir.

23 Q And who is that individual?

24 A That's Tomas, Don Joaquin's nephew.

25 MR. FELS: Your Honor, move to admit.

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1 MR. LICHTMAN: No objection.

2 THE COURT: Received.

3 (Government Exhibit 703A-2, was received in
4 evidence.)

5 MR. FELS: And move to publish Government Exhibit GX
6 703A-2.

7 Q Do you mind drawing a circle around the man in the red
8 shirt?

9 A (Witness complying).

10 Q Again, who is this?

11 A Tomas, Don Joaquin's nephew.

12 Q Now, after your call on the 18th of May with Marco Tulio
13 Flores, did you call one of your family members to let them
14 know about the resolution of this issue with Alex?

15 A Yes, sir.

16 Q And who is that?

17 A My mother.

18 Q And why did you want to call your mother?

19 A Well, my mother was very worried for Alex's life, with
20 obvious reasons.

21 MR. FELS: We have another call, ladies and
22 gentlemen, which is 606I-3G. Just going to play a clip from
23 that, starting at 4 minutes, and ending in 5 minutes, 55
24 seconds.

25 (Audio played.)

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1 Q Let's pause it there and just go through this part, and
2 we will resume.

3 Page 2, line 3, you say: Oh, I was able to get the
4 guarantee for Menor. Are you happy with that?

5 Who is Menor?

6 A My brother, Hildebrando Alexander Cifuentes Villa.

7 Q And what do you mean by the guarantee?

8 A I was talking about the properties that I was giving as
9 collateral for the cocaine that Don Joaquin required.

10 Q And then line 5, you say: I sent Marco Tulio, place the
11 Pance lot as guarantee for his project.

12 Who is "his" project? Who is the "his" in that
13 sentence?

14 A Don Joaquin.

15 Q And line 8: Because now, because now the man could take
16 off patiently.

17 What do you mean by that?

18 A Well, I referred to the fact that Don Joaquin had been
19 putting a lot of pressure on us, and now he could relax.

20 Q And let's turn to page 3, line 10. You say: What
21 happened was that I ended up without the thing that those guys
22 had installed, I went to call him, and it is no longer, it did
23 not, that the license was expired.

24 What are you talking about? What license?

25 A The security software for the encrypted communication

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1 system.

2 Q So what was the significance of the license being
3 expired?

4 A Well, number one, the engineer is the responsible person.
5 And, secondly, the system is down now, so none of us can have
6 secure communication anywhere.

7 Q Does that include Don Joaquin Guzman?

8 A Of course.

9 Q Let's just skip ahead to the next call. Showing you
10 what's been introduced as Government Exhibit 606I-3H. Sir,
11 were you able to listen to this call?

12 A Which one?

13 Q 606I-3HT.

14 A Yes, sir.

15 Q Are you on this call?

16 A No, sir.

17 Q How are you able to understand it if you weren't on it?

18 A Because I am part of this business of this deal.

19 Q And what's the date of this call?

20 A May 21.

21 Q What were the dates of the last two calls we just
22 listened to?

23 A May 18.

24 Q So three days later?

25 A That's correct, sir.

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1 Q Let's start playing the very first clip, and this should
2 be on the Sanction System.

3 Ladies and gentlemen, this should be up on your
4 screen.

5 (Audio played.)

6 Q We can stop it right there. Who are these two people
7 talking, calling each other uncle and nephew?

8 A Don Joaquin Guzman Loera and Tomas, his nephew.

9 Q All right. Let's continue.

10 (Audio played.)

11 Q Pause it there.

12 Tomas and Don Joaquin Guzman are talking about the
13 extensions working. Do you understand what they are talking
14 about?

15 A Of course. They are talking about the encryption
16 communication system which is not working because the engineer
17 didn't pay for the licenses.

18 Q All right. Let's continue on. Oh, I'm sorry. I'm
19 sorry.

20 One more thing we passed over. Don Joaquin Guzman
21 said call Panchito's extension, or have -- see if -- have him
22 call you.

23 Who is Don Joaquin talking about there?

24 A Panchito is my brother, Alexander Cifuentes. So when he
25 refers to the extension, is that each of us was assigned an

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1 extension on the system, be it like 101, 111. It depended on
2 who the user was.

3 Q Okay. Let's continue on.

4 (Audio played.)

5 Q Let's pause it there.

6 Now, who is that Don Joaquin Guzman is talking to?

7 A He's speaking to the cocaine supplier, a member of the
8 guerillas of the FARC.

9 Q And he is saying if you have six and if we pay you two
10 and a half, you can send six over there to Guaya?

11 THE INTERPRETER: Counsel, would you indicate
12 where --

13 MR. FELS: Sorry. Page 3, line 19.

14 A This means that when he says Guaya, he means Guayaquil,
15 Ecuador, and they are talking about six tons of cocaine, and
16 he's saying he's going to pay two and a half of those with
17 money and the rest on credit.

18 Q And on the top of page 4, line 21: Listen -- this is Don
19 Joaquin Guzman: Listen. I am going to buy two, and we will
20 leave you Simon's properties there as collateral for the rest.

21 What's going on there?

22 A First of all, he's a really good businessman because now
23 he's saying he's going to pay 2, not two and a half. And,
24 secondly, that he's going to put my properties as collateral
25 for the other four tons.

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1 Q And why do you say it is your properties?

2 A Well, because they are talking about my properties. They
3 say Simon, and I am Simon. Simon.

4 Q And then he says: We are two partners. Continuing in
5 line 21. If you want to send an associate of yours so you can
6 see who you are talking to, Compadre and I are partners.

7 Who do you know Don Joaquin Guzman to call Compadre?

8 A Mayo Zambada.

9 Q Let's play the tape just for the next two seconds.

10 (Audio played.)

11 Q Let's pause that there. "The guy from the M."

12 A Mayo Zambada.

13 Q Why do you know that Mayo Zambada is "the guy from the
14 M"?

15 A Because I know he's Don Joaquin's partner, I know he's
16 Don Joaquin's Compadre.

17 Q What's the first initial of Mayo?

18 A Mayo, "M."

19 Q And just to be clear, what was one of your nicknames?

20 A "Jota," the initial, "J."

21 Q Let's continue on.

22 (Audio played.)

23 Q Let's pause it there. Joaquin Guzman says: If you want,
24 my nephew can stay there with you until you get -- arrange or
25 whatever.

CIFUENTES VILLA - DIRECT - MR. FELS

1 What's he talking about there?

2 A He's telling the guerillas that he can leave there --
3 Tomas there as a guarantee that he is going to fulfill his
4 commitment. Same thing I did with my brother Alex. I left
5 him with him.

6 Q All right. Let's continue.

7 (Audio played.)

8 Q Let's pause it there.

9 Joaquin Guzman is talking about: I need you to do
10 me a favor and let a guy check the things.

11 It is on the top of page 5, line 29. What is he
12 talking there, check the things? Line 29, page 5.

13 THE INTERPRETER: Yes. Line 29, page 5 just says,
14 "well, is the purse."

15 MR. FELS: Yes. It is down about halfway down. I
16 need you to do me a favor, give me a favor (in Spanish).

17 THE INTERPRETER: Sorry, Counsel. We have it as
18 line 31.

19 MR. FELS: Oh, apologize.

20 A He's referring to the fact that he wants him to check the
21 quality of the cocaine because Don Joaquin was not satisfied
22 with the quality of the cocaine that Gilberto Garcia a/k/a
23 Politico had sold us, and he was right.

24 Q Let's keep going.

25 (Audio played.)

CIFUENTES VILLA - DIRECT - MR. FELS

1 (Continued on the next page.)

2 (Call played.)

3 Q Let's pause it there. Generally describe what is going
4 on here?

5 A Well, they are talking logistics. The guerrilla, the
6 person who is negotiating with him is accepting that he will
7 have somebody sent to check out the quality of the cocaine.
8 But the man is saying, the cocaine supplier is saying, that
9 before he shows him, before he shows him the cocaine he wants
10 50 percent for the 2 tons.

11 Q And right here on the screen you have Joaquin Guzman
12 saying, Do you agree that we pay you for two and leave the
13 property for the other four. Again, what does that mean?

14 A That he'll pay him the value of 2 tons in cash. And
15 he'll leave properties as collateral for the other 4 tons.

16 Q Let's continue on.

17 (Call played.)

18 Let's pause it there at 7:08.

19 What was that conversation going back and forth
20 about 2100 and 2,000?

21 A About the value of the cocaine per kilo either \$2,000 or
22 \$2,100 per kilo of cocaine.

23 Q Let's continue.

24 (Call played.)

25 Let's pause, 7:38.

CIFUENTES VILLA - DIRECT - MR. FELS

1 What does Joaquin Guzman and this other individual
2 just agree to?

3 A Well, the agreement was that he was going to pay for
4 2 tons, and that 4 tons are going to be left on credit, they
5 accepted the issue with the properties. And finally I do
6 understand that they left it at \$2,000; that is, the cocaine.

7 Q I was going to say 2 tons of what?

8 A The cocaine.

9 Q So 6 tons in total?

10 A Yes, sir, 6 tons of cocaine.

11 Q Let's resume, please.

12 (Call played.)

13 Let's pause right there, 8:14.

14 What is Tomas is talking about freight charges, what
15 is the significance of that?

16 A They are discussing the place where they will place the
17 cocaine at, which is Guayaquil. And Tomas says it's \$2,100
18 plus freight, that means to take it from the border of
19 Colombia to Guayaquil. And it's the same freight that I used
20 to pay Telmo Castro, the Captain, which was \$100.

21 Q Let's resume.

22 (Call played.)

23 Why don't we pause there, 9:32.

24 There is a reference there, Tomas is saying to
25 Panchito, Panchito is?

CIFUENTES VILLA - DIRECT - MR. FELS

1 A My brother, Alexander Cifuentes.

2 Q Let's keep going.

3 (Call played.)

4 Pause it there, 9:51.

5 Tomas talks about Gabriel, going over to Gabriel's
6 residence, what is the significance of that?

7 A Gabriel is one of the go-fast boats, he actually drives
8 one of those go-fast boats to deliver the cocaine. He was
9 living in Guayaquil at the house that I had rented out for
10 them. And then when he said over to Gabriel's, he meant
11 Guayaquil.

12 Q Have we seen Gabriel's name somewhere in the evidence in
13 this case?

14 A Yes, sir.

15 Q Showing what you is marked Government's Exhibit, and
16 introduced, as Government's Exhibit 301A, page 58, line 2561,
17 para Gabriel y Martin c/u 500.

18 A Well that's for Gabriel and Martin, and that's 500 each,
19 that's for their payroll for their expenses. And those are
20 two of the guys with the go-fast boat guys.

21 Q The lines around that entry, 2560, then 2562, 2565, who
22 are these references to payments?

23 A For Tomas, and that's refers to Don Joaquin's nephew.

24 Q Let's resume with the call, please.

25 (Call played.)

CIFUENTES VILLA - DIRECT - MR. FELS

1 Pause it there at 10:06.

2 Right there you can see the top of the screen, Yes
3 yes, yes. The properties are ready here. They are here,
4 already went and looked at them. What is he talking about?

5 A Well, he's saying that he already went to check out the
6 property with Marco Tulio Flores in Cali. He's referring to
7 the Pance lot.

8 Q Let's continue.

9 (Call played.)

10 Let's pause it there at 11:07. He's saying he
11 doesn't have the money over there, Don Joaquin. Where is he
12 talking about?

13 A He says that he doesn't have any cash at the
14 Colombia/Ecuador border.

15 Q You're interpreting that, when you say over there?

16 A Yes, of course.

17 Q Let's continue.

18 (Call played.)

19 Now one of those lines, page 13, should be line 115,
20 Don Joaquin Guzman says, No, no. He will look at the
21 merchandise first. I'll send the technician over tomorrow or
22 the next day. What is the merchandise?

23 A Cocaine.

24 Q Sir, to the best of your knowledge did this deal ever go
25 through?

CIFUENTES VILLA - DIRECT - MR. FELS

1 A No, sir.

2 Q Why is that?

3 A Because in the end the people didn't ask for the title of
4 the properties to be transferred.

5 Q So you don't know if the 2 tons that Don Joaquin Guzman
6 negotiated to pay did get sent?

7 A No, sir, I do not know. I don't have any information
8 about that.

9 MR. FELS: Your Honor, we have no further questions.

10 THE COURT: Okay. Cross-examination.

11 MR. FELS: Your Honor, if we could have a short
12 sidebar, please?

13 THE COURT: Okay.

14 (Continued on the next page.)
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SIDEBAR CONFERENCE

1 (Sidebar conference.)

2 MR. FELS: We have a witness who to needs to get
3 back by the end of the day.

4 THE COURT: You want to take a witness out of turn?

5 MR. FELS: Yes.

6 THE COURT: Any objection?

7 MR. LICHTMAN: We talked about this, he has to get
8 out before lunch. I would start the cross, then when there is
9 a period of time they need to get him out before lunch, I'd
10 stop.

11 MR. FELS: That's fine.

12 THE COURT: If you want, it's up to you, I don't see
13 why not play it safe for your cross. Then we have to take
14 this witness out with the Marshals.

15 MR. FELS: I don't mind if you want to start the
16 cross.

17 MR. LICHTMAN: I rather go straight without a break.

18 THE COURT: I would imagine. Let's excuse him and
19 take the other witness. I think the Marshals want us to have
20 the jury stand in the hall while the witness is taken out,
21 then bring in the other witness, then do your cross after
22 that.

23 MS. GOLDBARG: Just at sidebar, another witness we
24 believe who will testify after the cross is completed who also
25 has a time constraint, depending on -- we're fitting the

SIDEBAR CONFERENCE

1 witnesses in -- depending on his cross, we believe it's after
2 the cross. He also may be out of order. We discussed it also
3 with defense counsel.

4 THE COURT: We'll play it by ear talk. To each
5 other how long you expect that second witness to take.

6 MS. GOLDBARG: Yes.

7 MR. LICHTMAN: I'd like to get my cross done, if I
8 can.

9 MS. GOLDBARG: This person is at the end of the day.

10 THE COURT: So two witnesses out of turn, then
11 cross.

12 MR. LICHTMAN: One witness out of turn, then my
13 cross, then another witness. We'll see how we're doing.

14 THE COURT: How long is the next witness?

15 MR. FELS: Next witness is 20 minutes.

16 MR. LICHTMAN: Famous last words, 45 if we're lucky.

17 THE COURT: Do you know who the witness is? Is your
18 cross long?

19 MR. LICHTMAN: No.

20 THE COURT: Let's do this one witness. Okay.

21 (End of sidebar conference.)

22 (Continued on the next page.)

1 (In open court.)

2 THE COURT: Ladies and gentlemen, we're going to
3 defer cross-examination of this witness in order to
4 accommodate travel necessities with another witness. In order
5 to do that, I have to reset the courtroom a little. So I need
6 you to lineup in the hall and we'll bring you back in in three
7 minutes.

8 (Jury exits.)

9 THE COURT: Everyone be seated. Marshals can take
10 out the witness.

11 (Jury enters.)

12 THE COURT: Be seated. The Government may call its
13 next witness.

14 MR. FELS: The Government calls Todd Smith.

15 COURTROOM DEPUTY: Remain standing and raise your
16 right hand.

17 (Witness takes the witness stand.)

18 TODD SMITH, called as a witness, having been first duly
19 sworn/affirmed, was examined and testified as follows:

20 THE WITNESS: I do.

21 COURTROOM DEPUTY: State and spell your name for the
22 record.

23 THE WITNESS: Todd Smith, S-M-I-T-H.

24 THE COURT: You may inquire.

25 DIRECT EXAMINATION

TODD SMITH - DIRECT - MR. FELS

1 BY MR. FELS::

2 Q Good morning, Special Agent Smith. For whom do you work?

3 A Drug Enforcement Administration.

4 Q What is your current responsibility?

5 A Currently a staff coordinator at headquarters working in
6 the Operations Division Office of Global Enforcement Section,
7 OGE, which is strategic programming planning.

8 Q And how long have you been in your current position?

9 A I've been in Headquarters since June 2018; my current
10 position since August 2018.

11 Q Where were you prior to being in Headquarters?

12 A Chicago Field Division, Division Office.

13 Q What were your responsibilities then?

14 A From June of 2012 to June of 2018 I was group supervisor
15 overseeing Group 38 in Chicago.

16 Q Did you have a particular area of focus?

17 A We were mainly on long-term conspiracies.

18 Q Prior to being the group supervisor, what were you?

19 A I was a Special Agent in the Chicago Field Division,
20 Division Office.

21 Q How long have been with the DEA?

22 A Since 2004.

23 Q So prior to that, where were you working?

24 A Prior to that I was an Inspector with Customs Border &
25 Protection.

TODD SMITH - DIRECT - MR. FELS

1 Q I want to focus your attention to November of 2008.

2 Where were you working at that time?

3 A I was a Special Agent with DEA in Chicago assigned to our
4 HIDTA, High Intensity Drug Trafficking, Group 43.

5 Q Who were you working with at the time.

6 A What agency?

7 Q What other individuals, other agents, that you were
8 working with?

9 A On the team I was working for group supervisor Warren,
10 Special Agent Eric Durante with the group at the time, Special
11 Agent Connie Kuriate, Special Agent Pat Bagley was in the
12 group at the time. We had a number of Chicago police
13 department Detectives or Task Force officers in the group,
14 Barney Graf, Josh Weitzman. We had other Task Force officers
15 from other departments. We had County Sheriff Detective
16 Robert Vaughn. We had a Palos Park, I believe.

17 MR. PURPURA: We'll stipulate it was a large group
18 of people.

19 THE COURT: Yes, that's good.

20 Q Let me direct your attention on some work that you did
21 with Eric Durante.

22 A Sure.

23 Q Did there come a time that you observed Special Agent
24 Durante receive an e-mail?

25 A Yes.

TODD SMITH - DIRECT - MR. FELS

1 Q Who was the e-mail from?

2 A Intel analyst Adrian Ibanez.

3 Q What is it that you observed Eric Durante do with that
4 e-mail?

5 A He burned the e-mail on to a disk.

6 Q You observed him doing that?

7 A Yes.

8 Q Was there any sort of manipulation or editing of the
9 contents of the e-mail?

10 A Not that I saw.

11 Q Did you witness Eric Durante putting that disk somewhere?

12 A Yes.

13 Q Where is that?

14 A We put it into an evidence bag and it was submitted into
15 evidence.

16 Q Showing you what is marked for identification purposes as
17 Government's Exhibit N194, which is Government's Exhibit --
18 sorry -- Government's Exhibit 609H, which is listed on the
19 exhibit label N194. And showing you Government's Exhibit 609E
20 as in echo, which is listed here as N200. What are these two
21 disks?

22 A Recorded calls.

23 Q Do you recognize your initials on these disks?

24 A Yes, I do.

25 Q What is the significance of that?

TODD SMITH - DIRECT - MR. FELS

1 A In the witness by section it shows that I was present and
2 signed when it was put into its original envelope.

3 Q You notice there is a date opened, which is today's date
4 and a signature, whose signature is that?

5 A That's my signature; I opened the bag this morning.

6 Q Let me show you one more disk. I should add, did you do
7 this for both disks 609H and 609E?

8 A Correct.

9 Q Was there a time that Special Agent Durante received a
10 disk from Mr. Adrian Ibanez?

11 A Yes, a FedEx package.

12 Q Showing you what is marked for identification as
13 Government's Exhibit 609D, the contents of that package, did
14 you open that up today as well?

15 A I did.

16 Q Inside is an exhibit number N381, do you recognize your
17 initials?

18 A I do. The witness by section, similar to the other bag,
19 I witnessed that being sealed.

20 Q So, sir, were you asked to review a disk that has been
21 marked in evidence as Government's Exhibit 609K?

22 A I was.

23 Q Do you recognize anything on that disk?

24 A Those are my initials, TS; and today's date, December 13,
25 2018.

TODD SMITH - DIRECT - MR. FELS

1 Q Can you describe what is the significance of your
2 initials and that date?

3 A This morning I reviewed the contents on this disk. I
4 compared them to the original calls contained on those other
5 two disks.

6 Q Did you compare the time stamps for each of the calls on
7 Government's Exhibit 609K?

8 A I did.

9 Q Did they match up with identical calls contained in
10 Government's Exhibit 609D, 609E, 609H?

11 A That's correct.

12 Q Do they appear to be altered in any way?

13 A No, sir.

14 MR. FELS: Your Honor, at this point we would move
15 to introduce Government's Exhibit 609K.

16 MR. PURPURA: I have an objection. Perhaps a
17 sidebar?

18 THE COURT: Okay.

19 (Continued on the next page.)
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SIDEBAR CONFERENCE-SEALED

1 (Sidebar conference sealed.)
2 (End of sidebar conference.)
3 (Continued on the next page.)
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SMITH - DIRECT - MR. FELS

1 (In open court.)

2 THE COURT: 609K is received. Anything else?

3 (Government Exhibit 609K, was received in evidence.)

4 MR. FELS: Just one more thing, your Honor.

5 BY MR. FELS::

6 Q Sir, I want to direct your attention to the date of
7 November 13, 2008. Do you remember what you were assigned to
8 do that day?

9 A Yes, we were going to be fronted, at the time we thought
10 18 kilograms of heroin, we were working in operation.

11 Q And was there an undercover officer who was assigned to
12 that operation?

13 A Yes, Task Force Officer Mario Elias.

14 Q Where was this deal supposed to take place?

15 A At a Home Depot in North Lake, Illinois.

16 Q Have you been to that Home Depot?

17 A I have.

18 Q Were you there on the night of November 13, 2008?

19 A I was.

20 Q Showing you what is marked for identification purposes
21 for the witness only Government's Exhibit 21 --

22 MR. PURPURA: No objection.

23 MR. FELS: Move to admit 212-1.

24 THE COURT: Received.

25 (Government Exhibit 212-1, was received in

SMITH - DIRECT - MR. FELS

1 evidence.)

2 BY MR. FELS::

3 Q Do you recognize what this exhibit is depicting?

4 A Yes.

5 Q What is that?

6 A The Home Depot in North Lake, Illinois.

7 Q Did Mario Elias receive something from a suspect at that
8 date?

9 MR. PURPURA: Objection.

10 THE COURT: Sustained.

11 Q What happened at the end of this encounter?

12 MR. PURPURA: Objection.

13 THE COURT: Sustained.

14 Q You were present for this surveillance?

15 A I was.

16 Q And did you meet up with Mario Elias at the end of the
17 encounter?

18 A We did.

19 Q Did you observe what Mario Elias had obtained?

20 A Yes.

21 Q The next day, what you were asked to do with what Mario
22 had obtained?

23 A I was asked to process the seizure from the night before
24 into evidence.

25 Q What was the seizure?

SMITH - DIRECT - MR. FELS

1 A The seizure was 20 kilograms of heroin.

2 Q Showing you, again just for the witness, what is marked
3 Government's Exhibit 212-3.

4 MR. PURPURA: No objection.

5 MR. FELS: Introduce into evidence and publish.

6 THE COURT: Received.

7 (Government Exhibit 212-3, was received in
8 evidence.)

9 Q Special Agent Smith, what are we looking at at 212-3?

10 A That's a photograph of the seizure in its entirety taken
11 by the lab. So it's the 20 kilograms laid out in front of the
12 two boxes that I packaged it in.

13 Q And are you familiar with the term DEA 7A?

14 A I am.

15 Q Did you fill out a DEA 7A for this Exhibit 17, this
16 heroin?

17 A I did not; I filled out a DEA-7.

18 Q I apologize, DEA-7. Showing you Government's Exhibit
19 212-9.

20 MR. PURPURA: No objection.

21 MR. FELS: Move to introduce.

22 THE COURT: Received.

23 (Government Exhibit 212-9, was received in
24 evidence.)

25 Q What is 212-9?

SMITH - DIRECT - MR. FELS

1 A DEA-7 for Exhibit 17, 20 kilograms of heroin.

2 Q Did you prepare these remarks?

3 A I did. In Section 24 is my name, and in Section 24A is
4 my signature and the date of November 14, 2008.

5 Q Where does it say that that Home Depot was located, if
6 can you read that?

7 A 37 West North Avenue, North Lake, Illinois.

8 Q This describes what you did with the exhibit?

9 A Correct, yes. It shows that Task Force Officer Mario
10 Elias turned in an undercover vehicle over to a target at the
11 Home Depot. The target took possession of the vehicle. Short
12 time later, returned the undercover vehicle to undercover Task
13 Force Officer Elias at the above-referenced Home Depot.
14 Special Agent Durante recovered a black, plastic bag, which
15 contained 20 kilograms of heroin, Exhibit 17, as witnessed by
16 Special Agent Bagley. Special Agent Bagley and Zoltay
17 submitted Exhibit 17 to the DEA overnight drug vault for
18 safe-keeping.

19 November 14, 2018, Special Agent Durante and Graf
20 recovered Exhibit 17 from the overnight vault. And Special
21 Agent Todd Smith, myself, and Graf processed Exhibit 17 into
22 evidence and transported it the North Central Laboratory for
23 storage and safe-keeping.

24 Q Thank you. Are you aware that a lab report was prepared?

25 A Yes.

SMITH - DIRECT - MR. FELS

1 Q Showing what you is marked --

2 MR. PURPURA: No objection.

3 MR. FELS: Your Honor, move to introduce, and
4 without objection, 212-2.

5 THE COURT: Received.

6 (Government Exhibit 212-2, was received in
7 evidence.)

8 MR. FELS: And publish.

9 BY MR. FELS::

10 Q What was the test results of Exhibit 17 that you
11 submitted for evidence?

12 A The North Central Laboratory submitted their findings,
13 Exhibit 17 active drug ingredient heroin hydrochloride with
14 94.4 purity.

15 Q Reserve weight?

16 A 19.74 kilograms.

17 MR. FELS: Your Honor, if the witness could step
18 down, we have an exhibit to show.

19 THE COURT: Okay.

20 (Witness steps off stand.)

21 Q Showing you what is marked for identification purposes as
22 Government's Exhibit --

23 MR. PURPURA: No objection.

24 MR. FELS: We'd like to introduce as --

25 THE COURT: I know you're trying to help, but you

SMITH - DIRECT - MR. FELS

1 got to let him finish.

2 MR. FELS: 212-8A and 212-8B.

3 Q Do you recognize your signature in any of these boxes?

4 A I do.

5 Q On one box or both?

6 A Both boxes.

7 Q What is this?

8 A This is the Exhibit 17, the 20 kilograms of heroin. I
9 sealed both boxes and placed the kilograms in the boxes.

10 Q This is the same heroin that was obtained on November 13,
11 2008?

12 A Yes.

13 Q Let's open them up.

14 THE COURT: Those are received.

15 (Government Exhibit 212-8A & 212-8B, was received in
16 evidence.)

17 Q What are we looking at?

18 A The 20-kilogram seizure from November 13, 2008 processed
19 by the lab.

20 Q If you can take a look, there appears to be some writing?

21 A Yes, the word B-O-T-E was written on every kilogram.

22 Q Do you know what the significance of that is?

23 A In Spanish it means boat.

24 MR. FELS: No further questions.

25 THE COURT: Any cross?

TODD SMITH - CROSS - MR. PURPURA

1 MR. PURPURA: Your Honor, there will be. I would
2 ask the Court to consider a break at this point.

3 THE COURT: Okay. Let's take our morning break,
4 ladies and gentlemen. We'll reconvene 11:35 a.m. Remember
5 not to talk about the case. We'll see you shortly.

6 (Jury exits.)

7 (Brief recess.)

8 MR. PURPURA: Your Honor, I have no problem with the
9 Government clearing off the evidence.

10 THE COURT: You're asking them to do that.

11 MR. PURPURA: Yes, please.

12 THE COURT: Makes sense.

13 (Jury enters.)

14 THE COURT: Be seated. Cross-examination.

15 MR. PURPURA: Thank you, your Honor.

16 CROSS-EXAMINATION

17 BY MR. PURPURA::

18 Q Agent, I'll put on the overhead what is admitted into
19 evidence as Exhibit 212-3. That is the picture of the cocaine
20 that the other agents are now taking away.

21 Agent, now again, directing your attention to
22 Government's Exhibit 212-3, and you already spoke about this,
23 B-O-T-E, bote, and that's the marking on all the kilos,
24 correct?

25 A Good morning, sir, yes.

TODD SMITH - CROSS - MR. PURPURA

1 Q Good morning, thank you. And now this seizure occurred
2 on November 13, 2008, correct?

3 A Correct, sir.

4 Q We have 20 kilos there with B-O-T-E, bote, on it,
5 correct, sir?

6 A Yes.

7 Q The question I have for you, you've been in the HIDTA
8 Task Force, the High Intensity Drug Task Force in Chicago for
9 a period of time, are you familiar with that markings on those
10 kilos?

11 A Prior to the seizure, I'd never seen those markings.

12 Q How long have you been in Chicago as a High Intensity
13 Drug Task Force officer prior to the seizure in November 2008?

14 A Since 2004.

15 Q So the prior four years you never saw those markings,
16 B-O-T-E, which are fairly obvious on all four of those kilos?

17 A On all 20 kilos, that's correct.

18 Q We know already, but can you tell us quickly why anyone
19 would put any type of markings on kilos?

20 A Generally kilograms are marked so the end recipient knows
21 it's the same kilos that they purchased.

22 Q Purchased as in Colombia, Mexico wherever they purchased
23 them?

24 A Correct.

25 Q Are you familiar with Project Fountainhead?

TODD SMITH - CROSS - MR. PURPURA

1 A I am.

2 Q Did you submit -- strike that.

3 What is Project Fountainhead?

4 A Project Fountainhead is run by the DEA lab, where they
5 take images of kilos, both exterior but then also stampings on
6 kilos. All the tape and packaging materials are removed,
7 occasionally kilograms are stamped with an imprint, it could
8 be anything. We have a database that tracks that.

9 MR. FELS: Objection, your Honor to further
10 questioning on this.

11 THE COURT: There hasn't been a further question
12 yet, let's see.

13 Q Did you submit the B-O-T-E to Project Fountainhead?

14 MR. FELS: Objection, your Honor.

15 THE COURT: Sustained.

16 MR. PURPURA: I have no further questions.

17 THE COURT: Any redirect?

18 MR. FELS: No, your Honor.

19 THE COURT: You may step down. Thank you.

20 (Whereupon, the witness was excused.)

21 THE COURT: Are we resuming cross-examination of the
22 other witness?

23 MR. FELS: Yes, your Honor.

24 THE COURT: I need to have the jury stand in the
25 hall for a minute. Don't go anywhere; we'll be right back.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 (Jury exits.)

2 THE COURT: Be seated. Let's get Mr. Cifuentes
3 back.

4 (Witness resumes stand.)

5 THE COURT: Let's have the jury back.

6 (Jury enters.)

7 THE COURT: We'll have cross-examination of
8 Mr. Cifuentes.

9 MR. LICHTMAN: Thank you, Judge.

10 CROSS-EXAMINATION

11 BY MR. LICHTMAN::

12 Q Good morning, Mr. Cifuentes.

13 A Good morning.

14 Q You've been committing crimes since you were a child,
15 correct?

16 A Yes, sir.

17 Q And you've been lying since you were a child; isn't that
18 true?

19 A Yes, sir, that's right.

20 Q You grew up in Medellin you said?

21 A Yes, sir.

22 Q One of nine children?

23 A That's correct.

24 Q And you said you were second to the youngest?

25 A Yes, sir.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 Q Alex was the youngest?

2 A That's right.

3 Q Alex was born in January of 1968?

4 A That's right.

5 Q So you were less than two years apart?

6 A Yes, sir.

7 Q You had told the Government that your father was a truck
8 driver?

9 A That's right.

10 Q And you had also testified the other day that your father
11 carried contraband, like whiskey and cigarettes from the
12 seaport to your home?

13 A That's right, yes, sir.

14 Q Then he would store that contraband for a few days until
15 smaller trucks would come and pick that contraband up?

16 A Yes, sir.

17 Q You've told the Government that you would help him, you
18 started helping him when you were just four years old?

19 A Yes, sir, that's right.

20 Q You helped him move the boxes of contraband from his
21 truck into storage?

22 A Yes, sir.

23 Q And then from storage into the smaller trucks?

24 A Yes, we would store it at home.

25 Q And you began talking to the Government, proffering with

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 them, in approximately February 2014; is that correct?

2 A Yes, sir.

3 Q You would never lie to the Government, correct?

4 A No, sir.

5 Q You would never lie to the Judge or this jury, correct?

6 A No, sir.

7 Q You respect our laws in America, correct?

8 A Well, I have committed crimes in the United States.

9 Q But you respect the law now?

10 A Yes, sir.

11 Q And you respect the Government, the prosecutors and the
12 agents?

13 A Yes, sir.

14 Q Now your father was actually a drug dealer, wasn't he, as
15 well?

16 A Yes, sir.

17 Q He grew cocaine on his farm?

18 A No, sir, he didn't have a farm. The cocaine was
19 processed at his farm.

20 Q Who's farm?

21 A My father's.

22 Q So your father did have a farm.

23 A Yes, but we did not sell cocaine.

24 Q Didn't he dry cocaine in the ovens in your house?

25 A No. My older brother was the one in charge of processing

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 the cocaine.

2 Q So your brother, Alex, who was less than two years
3 younger than you, did not assist your father drying cocaine in
4 the family's property?

5 A Well, like I said, my father did not know how to process
6 cocaine. My older brother was the one in charge of processing
7 the cocaine. And Alex did help us.

8 Q Forget Pacho, I'm talking about your father.

9 A That's right.

10 Q Didn't Alex assist your father in drying cocaine in the
11 ovens on your property?

12 A As far as I know, no, my Dad did not process cocaine.

13 Q So what did your father actually do with cocaine?

14 A Well, my Dad was a driver. He drove his truck; he did
15 not own the truck. And initially they would bring contraband
16 from the port, whiskey and cigarettes --

17 Q Let me interrupt --

18 A -- and sometimes --

19 Q -- and focus the question if I can.

20 Did your father have anything to do with cocaine?

21 A Yes, sir.

22 Q What did he have to do with cocaine?

23 A The trucks that he would drive as a driver he would
24 transport coca base from the Ecuadorian/Colombian border to
25 Medellin.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 Q Your father was a drug dealer, correct?

2 A That's right, yes, sir.

3 Q Are you aware that in all of your debriefings with the
4 Government you never once mentioned that he was involved in
5 dealing drugs?

6 A You're mistaken, sir. I did do that.

7 Q I'm going to show for the witness only, 3500-73. I would
8 mark this for identification, I suppose, Defendant's exhibit
9 321, and ask you to read to yourself the X, paragraph three?

10 A It's in English.

11 Q I meant translate, I apologize?

12 MR. FELS: Objection. It's the method of
13 cross-examination on this.

14 THE COURT: He's trying to refresh his recollection,
15 I think he can do that.

16 (Interpreter reading for the witness.)

17 Q Are you ready, sir?

18 A Yes, sir, I'm ready.

19 Q Does that refresh your recollection that you never told
20 that your father was involved in any kind of cocaine dealings,
21 just that your older brother, Pacho, was?

22 MR. FELS: Objection. Misstates his testimony.

23 THE COURT: Let's have a sidebar.

24 (Continued on the next page.)

25

SIDEBAR CONFERENCE

1 (Sidebar conference.)

2 THE COURT: It's hard enough to use a 302 to impeach
3 a witness's recollection, it's not the witness's statement.
4 When you're using an omission, something that's not there, you
5 didn't tell, I think the most you can do is ask, you didn't
6 tell. If he says I don't remember if I told or not, then you
7 can show him this. But he didn't say that.

8 MR. LICHTMAN: You're saying there is no need to
9 refresh because he denied.

10 THE COURT: If he says affirmatively, I told them.

11 MR. LICHTMAN: Let me just clean it up by saying did
12 you tell the Government that your father --

13 THE COURT: Same question again.

14 MR. LICHTMAN: Same question.

15 THE COURT: Okay, but he's going to say no.

16 MR. LICHTMAN: Then that's it, what am I going to
17 do. I can't do it until I call an agent.

18 (End of sidebar conference.)

19 (Continued on the next page.)

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CIFUENTES - CROSS - MR. LICHTMAN

1 (In open court.)

2 BY MR. LICHTMAN::

3 Q What you were just given, does that refresh your
4 recollection that you never told the Government that your
5 father was a drug dealer?

6 MR. FELS: Objection.

7 THE COURT: I'll allow it.

8 A It refreshes my memory the fact that I did mention it.
9 And I did not write down those notes, but I've always told the
10 truth.

11 Q Now do you recall being debriefed by the Government about
12 your family structure?

13 A Yes, sir.

14 Q You were asked about all of your siblings, there are nine
15 of you?

16 A Yes, sir.

17 Q As you testified on direct, even when all of you were
18 young, the drug business to your family was a family business?

19 A Yes, sir.

20 Q And you were asked to name each of your siblings and
21 whether or not they were involved in drug dealing?

22 A I do not remember if they asked me in that way, but I did
23 mention it.

24 Q Let me see if I can avoid having you read something. You
25 were asked about each of your family members, each of your

CIFUENTES - CROSS - MR. LICHTMAN

1 brothers and sisters?

2 A No, sir.

3 Q You were not asked about each of your siblings?

4 A No, they asked me about my crimes.

5 Q They didn't ask you about whether or not your siblings
6 dealt drugs as well?

7 A They would ask me who was present when we were at the lab
8 processing the cocaine and I did mention that.

9 Q Okay. So just to be clear, and then I'll move on, you
10 were not asked specifically about each of your siblings and
11 whether or not they dealt drugs?

12 A As far as I remember, it wasn't in that way.

13 Q Then I'm going to be putting up to refresh your
14 recollection 3500-JMC-92 and marked as Defendant's exhibit
15 320.

16 THE COURT: Since it's not moved into evidence, you
17 don't need to remark it, you can just recite the number.

18 MR. LICHTMAN: Fair enough.

19 Q If you can review to yourself of that portion.

20 THE INTERPRETER: Would you like the interpreter
21 read that, sir?

22 MR. LICHTMAN: Unless he suddenly learns English,
23 yes.

24 (Interpreter reading for the witness.)

25 A Yes, sir.

CIFUENTES - CROSS - MR. LICHTMAN

1 Q Does that refresh your recollection that you were asked
2 by Government, prosecutors and agents to describe the
3 involvement of each of your siblings in the drug world?

4 A Yes, sir, I guess you could say that.

5 Q And you were asked that first Teresa is the oldest, was
6 the first in the family, your sister Teresa?

7 A Yes.

8 Q Your sister Teresa is the oldest in the family?

9 A Yes, she's the oldest one.

10 Q She was not involved in the narcotics field, was she?

11 A No, no, sir.

12 Q Pacho was next, that's Francisco?

13 A That's correct, yes, sir.

14 Q He was obviously a very major drug trafficker.

15 A Yes, sir.

16 Q Lucia was next your sister?

17 A Correct.

18 Q You told the Government that she was not involved in the
19 drug business?

20 A She was not involved in the drug business.

21 Q Okay. So we listened to tapes just yesterday that you
22 interpreted for the Government -- for the jury, correct?

23 A Yes, sir.

24 Q And she was discussing drug dealings on those tapes,
25 wasn't she, just yesterday I believe?

CIFUENTES - CROSS - MR. LICHTMAN

1 A Yes, sir.

2 Q So you just said 30 seconds ago that she was not involved
3 in the drug business, and now you're saying that she's
4 discussing drug business, which is it?

5 A I did not know that Jaime Alberto shared everything with
6 her. She shouldn't have been involved in drug trafficking,
7 but she helped my nephew and --

8 THE INTERPRETER: The interpreter wants to the
9 clarify something.

10 A And my sister now is in jail.

11 Q She's in jail for drug trafficking, correct?

12 A Of course, that's correct.

13 Q But you maintain that she's not involved in the drug
14 business?

15 A What I maintain is that when I gave that statement I did
16 not know that she was involved and that she had been talking
17 to my nephew, that's when I spoke to them about this.

18 Q You had no idea that your sister, Lucia, was involved in
19 drug trafficking until she got arrested?

20 A No, sir, I did not know.

21 Q So when you had a problem with her son, Jaime, remember
22 when he stole some cocaine that wasn't his?

23 A That's correct, yes, sir.

24 Q Didn't your other family members pressure Lucia to get
25 that cocaine back from Jaime?

CIFUENTES - CROSS - MR. LICHTMAN

1 A Yes, for her to locate Jaime Alberto Roll. But as far as
2 I understand, that does not mean that she was involved in drug
3 trafficking.

4 Q So what you're saying is that that you enlisted Lucia to
5 find Jaime who had stolen the 225 kilograms of crack cocaine,
6 but at no point did anybody in the family tell her why you
7 desperately needed to find Jaime?

8 A I am not saying that Lucia did not know of the other
9 siblings' activities, of course she did know about the drug
10 trafficking activities, but she did not traffic drugs. She
11 was protecting her son. And she did not say where he was.
12 And that was Don Joaquin's cocaine.

13 Q The reason she didn't say where her son was is because
14 she knew that he had stolen cocaine, correct?

15 A I guess so, yes, sir.

16 Q You guess that she's in jail over drug trafficking. She
17 received an 11-year sentence, are you aware of that?

18 A That's correct.

19 Q And we can agree now, and I'll move off of this now, that
20 your sister, Lucia, was involved in the drug business along
21 with her son, your parents and most of your siblings?

22 A Yes, sir, you're completely right, sir.

23 Q One last question, do you recall that when you spoke to
24 the Government about your siblings and their involvement in
25 the drug business this was on November 30, 2017?

CIFUENTES - CROSS - MR. LICHTMAN

1 A Can you repeat that please?

2 Q Do you recall that when you were asked by the Government
3 about the involvement of your siblings in the drug business,
4 that that debriefing occurred on November 30, 2017?

5 A Well, from what I see with what you're marking, yes, sir.

6 Q So your sister, though, was arrested for drug trafficking
7 in 2014, three years earlier, correct?

8 A Yes, sir.

9 Q So three years later, after you knew your sister was in
10 jail with an 11-year sentence for drug trafficking, you told
11 these prosecutors and agents that she was not involved in the
12 drug business?

13 A No, sir, I said she was in jail. It was in all the news.
14 Why would I try to hide that?

15 Q Sir, all I asked -- please, there is not a question.

16 A I didn't prepare these documents, I'm sorry.

17 Q In 2014, I hate to belabor this, you knew your sister
18 went to jail for a long stretch for drug dealing?

19 A For helping my nephew yes, sir.

20 Q In 2017, three years later, you told these prosecutors
21 that she was not involved in the drug business?

22 A That's not true, sir.

23 Q We'll move on.

24 Jaime, as you said, was her son?

25 A He still is her son, yes.

CIFUENTES - CROSS - MR. LICHTMAN

1 Q Understood. He's still a drug dealer, correct?

2 A He's in this jail in La Picota doing his time for drug
3 trafficking, yes. I'm assuming he's no longer a drug
4 trafficking.

5 Q In jail you mean.

6 A In jail.

7 Q Fair enough. Last question on this topic. You're
8 telling the jury that you had discussion with Jaime and Lucia
9 was going to be kept in the dark about everything that he was
10 doing?

11 A I don't remember. Can you refresh my memory? What are
12 you talking about?

13 Q No, that's okay. You treated Jaime Alberto Roll in a
14 trusting manner, would you agree?

15 A Yes, sir.

16 Q You trusted him so much that you actually asked him to
17 help you deceive Mr. Guzman, correct?

18 A Yes, sir, that's true.

19 Q That was with regard to the cocaine that was missing.
20 You wanted Jaime to show Mr. Guzman's nephew, Tomas, the same
21 cocaine twice to fool him into thinking that there was more
22 cocaine than there was -- sorry about that long question?

23 THE COURT: Do you want to rephrase it?

24 THE INTERPRETER: Thank you, your Honor.

25 Q You had Jaime Alberto Roll -- you asked him to lie to

CIFUENTES - CROSS - MR. LICHTMAN

1 Mr. Guzman's nephew?

2 A Yes, sir, I asked him for that favor, yes.

3 Q To show the same cocaine twice to Tomas, to give the
4 appearance that there was more cocaine than there was?

5 A Yes, to show him part of the cocaine twice so it would
6 seem there were 8 tons. Yes, sir, that's true.

7 Q In your mind Jaime was a drunk; is that correct?

8 A Jaime didn't drink. Because my sister Lucia was an
9 alcoholic and his experience growing up was very difficult.

10 Q You don't recall telling the Government that Jaime
11 Alberto Roll was a drunk?

12 A No, sir.

13 Q Could you use your recollection refreshed on this?

14 A Well, if you could do that. But Jaime Alberto doesn't
15 drink. He doesn't drink.

16 THE COURT: I don't think so, Mr. Lichtman.

17 MR. LICHTMAN: I was waiting, Judge. That was nice
18 of me.

19 Q Did you tell the Government that Jaime Alberto Roll lived
20 off of women?

21 A He lived off of women? I don't understand that question.

22 Q Did you tell the Government that Jaime Cifuentes lived
23 off of women, that he used women to support him?

24 A No, sir.

25 Q And you used Jaime Cifuentes as a strawman for some your

CIFUENTES - CROSS - MR. LICHTMAN

1 companies, if you know what that means?

2 A Yes, I know that word, strawman. Yes, I did do that.

3 Q Meaning you fraudulently listed him as at owner of the
4 company?

5 A Yes, sir.

6 Q To protect yourself?

7 A To protect the companies, the properties.

8 Q Because you were a criminal.

9 A Guilty, yes, sir.

10 Q You wanted to hide the fact that a criminal like you
11 owned those companies?

12 A More than that, it was that in my tax filings there was
13 not enough room to put this in my name.

14 Q Now Jaime was your older sister Lucia's son?

15 A Yes, sir, correct.

16 Q And your family was a very close family, correct?

17 A Unfortunately, no. We had conflicts like any other
18 family I assume.

19 Q You had conflicts that any normal family could have.

20 A Yes, gossip here, gossip there.

21 Q Like the time that your brother Alex ordered the murder
22 of your nephew, Jaime?

23 A That's correct.

24 Q So those are typical family issues that you had, your
25 brother ordered the murder of your nephew?

CIFUENTES - CROSS - MR. LICHTMAN

1 MR. FELS: Objection, your Honor.

2 THE COURT: Sustained.

3 Q Now, the reason why your brother ordered the murder of
4 Lucia's son was because Jaime had ordered the kidnapping of
5 your mother?

6 A That's correct.

7 Q So Jaime ordered the kidnapping of his grandmother.

8 A That's true.

9 Q Typical family issues.

10 MR. FELS: Objection, your Honor.

11 THE COURT: Sustained.

12 Q But you and Alex nevertheless both used Jaime to help you
13 deal drugs?

14 A Yes, sir, that's correct.

15 Q Now Teresa, you said was not a drug dealer?

16 A No, sir.

17 Q Pacho, your older brother, was a drug dealer killed by
18 another narcotics trafficker?

19 A Yes, sir.

20 Q And your sister, Dolly, was a drug trafficker?

21 A Yes, sir.

22 Q Is she in prison right now?

23 A She did time here in the United States.

24 Q She did time in the United States?

25 A Yes, sir, like five or six years.

CIFUENTES - CROSS - MR. LICHTMAN

1 Q Is she out of prison now?

2 A Yes, sir.

3 Q She cooperated with the Government, didn't she?

4 MR. FELS: Objection, your Honor.

5 THE COURT: Sustained.

6 (Continued on next page.)

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CIFUENTES - CROSS - MR. LICHTMAN

1 CROSS-EXAMINATION

2 BY MR. LICHTMAN::

3 Q Now with regard to your mother Carlina, that's her name?

4 A Yes, sir, Carlina.

5 Q And she was very much involved in the day-to-day business
6 of your drug trafficking organization?

7 A Yes, sir.

8 Q And you would go to her all the time for advice on the
9 smallest details of your drug trafficking problems?

10 A No, sir.

11 Q She passed messages between the brothers regarding drug
12 trafficking issues?

13 A Yes, sir.

14 Q You went to her for advice on drug trafficking issues?

15 A That's correct, sir, yes.

16 Q Now growing up your family wasn't poor, were they?

17 A Very poor.

18 Q Very poor.

19 A Well, seven of us slept in one bed.

20 Q In one bed seven of you slept?

21 A Yes, sir.

22 Q Was that a very large bed?

23 A We were very small.

24 Q So you slept -- was it a single bed?

25 A No, it was a Queen size bed.

CIFUENTES - CROSS - MR. LICHTMAN

1 Q Did you sleep across or were you side to side?

2 THE COURT: Mr. Lichtman.

3 MR. LICHTMAN: Sorry, Judge, I forgot where I was
4 for a second.

5 Q But there is more to drug dealing than just buying and
6 selling, wouldn't you agree?

7 A Yes, sir, there are many activities within drug
8 trafficking.

9 Q Besides transporting drugs and buying and selling, you
10 had to take advantage of any opportunity you could, correct?

11 A I don't know what you're referring to.

12 Q That's fair. That was a bad question.

13 You learned early on that you needed to take
14 advantage of any opportunity to bribe law enforcement.

15 A That's correct, yes, sir.

16 Q So that you could move your drugs without being caught?

17 A Yes, sir.

18 Q Now your older brother, Pacho, attended a military
19 academy for a few years, correct?

20 A That's correct, sir.

21 Q Was that free that military academy, do you know?

22 A I think so. I have no idea. I was small.

23 Q You don't know that the military academy actually you
24 have to pay a tuition?

25 A Yes, but I think it was something that -- I don't know, I

CIFUENTES - CROSS - MR. LICHTMAN

1 know from the photo because I saw him in military uniform, but
2 I don't know because I wasn't in charge of paying his
3 schooling.

4 Q Understood. And this was a school where many of the
5 students graduated and went into the military in Colombia?

6 A Yes, sir.

7 Q And some of those graduates reached very high positions
8 in the government and in the military in Colombia?

9 A Yes, sir.

10 Q And Pacho didn't actually graduate that military academy,
11 isn't that true?

12 A No, he spent, I don't know, maybe a couple of years
13 there, I don't know.

14 Q But he made many friends there, correct?

15 A Yes, sir.

16 Q And you're aware that his friends went on to very
17 distinguished careers in the Colombian military?

18 MR. FELS: Your Honor, I object to relevance.

19 THE COURT: Well, I'm hoping it will wrap up. I'll
20 give him a little leeway.

21 MR. LICHTMAN: Thank you, Judge.

22 A Yes, sir.

23 Q And Pacho used those connections he made to those friends
24 to bribe them later in life, correct?

25 MR. FELS: Objection, Your Honor. May we have a

CIFUENTES - CROSS - MR. LICHTMAN

1 sidebar?

2 THE COURT: Okay.

3 (Sidebar conference.)

4 (Continued on the next page.)

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SIDEBAR CONFERENCE

1 THE COURT: You're not going to impeach this
2 witness.

3 MR. LICHTMAN: No, I'm going to explain why. He
4 told the government that his brother bribed many of his
5 friends as they grew up and he used the information and the
6 protection to help with his own drug dealing.

7 THE COURT: Okay.

8 MR. FELS: That's fine. The only thing I'm
9 concerned about are some of the names.

10 MR. LICHTMAN: They're all blacked out. The only
11 one that is not I think is Betancourt, that's out. Everyone
12 else is blacked out.

13 MR. FELS: Okay.

14 MR. LICHTMAN: I could say Mr. Redacted.

15 THE COURT: He'll be careful, but the area is
16 legitimate.

17 (End of sidebar conference.)

18 (Continued on the next page.)
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SIDEBAR CONFERENCE

1 (In open court.)

2 MR. LICHTMAN: Judge may I?

3 THE COURT: Please.

4 BY MR. LICHTMAN::

5 Q When we left off the question was, is that Pacho used the
6 connections he made in the military academy to bribe those
7 friends later in life.

8 A Yes, sir.

9 Q While they were in the military and the government?

10 A Yes, sir.

11 Q To allow him to move his narcotics without fear of them
12 being seized?

13 A Yes, sir.

14 Q Or him being arrested. No fear of him being arrested
15 when he was bribing his old friends?

16 A Yes, sir.

17 Q He gave them boxes of cash that you witnessed?

18 A Yes, sir.

19 Q And various generals, colonels, police officers came to
20 see Pacho in his office all the time?

21 A I saw some officers, yes, sir.

22 Q They came just to get bribed, to receive money, correct?

23 A Yes, sir. And I assume to greet him too.

24 Q And to greet him as well.

25 And that was what Pacho -- one of things he was

SIDEBAR CONFERENCE

1 known for was the fact that he had all the connections to
2 corrupt officers in the Colombian military and law
3 enforcement?

4 A Yes, sir.

5 Q And you benefited from this as well because you were
6 part -- you were dealing drugs with Pacho?

7 A Yes, sir, that's correct.

8 Q And you yourself -- sorry. You, yourself, bribed any
9 number of high ranking military officers in Colombia?

10 A No, sir, not as far as I remember.

11 Q You didn't bribe any one in the military in Colombia?

12 A Not as far as I remember. I got those documents from the
13 prison and stuff, but those weren't military people, no. In
14 Ecuador I did.

15 Q Excuse me. I apologize. You bribed military men in
16 Ecuador?

17 A Yes, sir.

18 Q And you had bribed attorney generals in Colombia?

19 A In Mexico.

20 Q I apologize, thank you.

21 You bribed an attorney general, a prosecutor in
22 Mexico, correct?

23 A Yes, sir.

24 Q And you bribed the police?

25 A Whenever it was needed, yes, sir.

SIDEBAR CONFERENCE

1 Q Whenever you needed it?

2 A Yes, sir, for drug trafficking.

3 Q And part of your skills as a successful narcotics
4 trafficker is your ability to deceive people, correct?

5 A No, sir.

6 Q You don't think you need to lie when you're a drug
7 trafficker at your level?

8 A No, sir.

9 Q So you didn't lie in your everyday drug dealing
10 activities?

11 A No, sir.

12 Q Did you ever lie while you were dealing drugs?

13 A Yes, sir.

14 Q Just very infrequently?

15 A Very rarely.

16 Q Very rarely you lied?

17 A Yes, sir.

18 MR. FELS: Objection. Asked and answered.

19 THE COURT: It's easier to let him answer again.

20 BY MR. LICHTMAN::

21 Q You lied to your sister Lucia, you claimed, by not
22 telling her about her son's drug dealing?

23 A I'm sorry, can you repeat that.

24 Q I'll move on.

25 Part of your life was getting fake identification,

SIDEBAR CONFERENCE

1 correct?

2 A Yes, sir.

3 Q Honest people don't need fake identification, do they, if
4 you know?

5 A Well, there are political people who are being persecuted
6 and they use those. Or when the government gives a new
7 identity to a witness.

8 Q Were you being persecuted, is that the reason why you had
9 a fake driver's license?

10 A No, sir.

11 Q Were you given a fake identity by the government after
12 cooperating, is that why you had a fake driver's license while
13 you were dealing drugs?

14 A No, sir.

15 Q The reason you had a fake driver's license were -- was
16 because if you got stopped by law enforcement you can show an
17 ID that it was not your real name.

18 A That's right, yes, sir.

19 Q You had credit cards in fake names, correct?

20 A Yes, sir, that's right.

21 Q Did you make large purchases with those credit cards in
22 fake names?

23 A Yes, sir.

24 Q So that if you made any big purchase law enforcement
25 wouldn't see what you were buying?

SIDEBAR CONFERENCE

1 A Well, that I wasn't the one who was buying it -- well,
2 yes, sir, that's correct.

3 Q When you were in Geneva in 2001 you bought three Rolex
4 watches.

5 A Simon Yelenick, Alex and I we did purchase three watches.

6 Q Did you use a credit card with a fake name to buy your
7 three watches?

8 A That's not true.

9 Q You used your credit card with your real name?

10 A Simon Yelenick paid for them with his own card.

11 Q Was it a card -- never mind, let me move on.

12 You did use credit cards with fake names as you
13 said?

14 A Yes, sir, of course.

15 Q And every time you used a credit card with a fake name
16 that was a crime, wasn't it?

17 A I did not know.

18 Q You didn't know that using a credit card in a fake name
19 was a fraud?

20 A No, sir.

21 Q What about today, right now as you're testifying, do you
22 think that using a credit card in a fake name is okay?

23 I can't hear you.

24 A I really do not know, I do not know the law in this
25 country. I do not know.

SIDEBAR CONFERENCE

1 Q I'm not talking about the law in this country, I'm
2 talking about the law in any country.

3 A Man, I mean I don't think so. Why?

4 Q After --

5 A You want me to tell you why.

6 THE COURT: Wait, you have to let him finish.

7 A Well, I don't understand. I mean, I'm not committing
8 fraud. I mean, I have some money which is part of the drug
9 trafficking proceeds and I'm purchasing something and where is
10 the fraud? My crime is the source of the money which is the
11 result of the drug trafficking. So when you are telling me
12 that it's fraud I do not understand.

13 Q When you hand a credit card with a fake name on it to a
14 merchant and tell the merchant that you're Mr. Gonzalez
15 instead of Mr. Cifuentes, is that a lie?

16 A Yes, sir, but I am not stealing.

17 Q Sir, is it a lie?

18 A Yes, sir, of course it is.

19 Q Is it a fraud?

20 A No, sir.

21 Q So it's a lie but it's not a fraud?

22 A That's what I understand, yes, sir.

23 Q There's no question before you, sir.

24 A I think --

25 Q Now after you picked up your three Rolex watches in

SIDEBAR CONFERENCE

1 Geneva you flew to Paris on your way to Montreal, didn't you?

2 A Yes, sir, that's true.

3 Q You had to finish a 15-ton hashish deal, didn't you?

4 A Yes, sir.

5 Q And you were stopped at customs because they thought you
6 were a jewel thief, isn't that what you told the government?

7 A Yes, sir.

8 Q And you showed them a Mexican passport, didn't you?

9 A Yes, sir.

10 Q And it had a fake name of Sergio Osuna Villareal?

11 A Yes, sir.

12 Q You showed that to the customs officer, didn't you?

13 A Yes, sir.

14 Q Was that a lie?

15 A Yes, sir.

16 Q Was that wrong?

17 A Yes, sir, that was wrong.

18 Q It's because you got detained, correct?

19 A Yes, sir, that's correct.

20 Q That's why it was wrong?

21 A No, it was a lie, I mean it's wrong.

22 Q Because you carried an identification with a fake name on
23 it?

24 A That's correct.

25 Q Now, they detained you and your brother Alex at that

SIDEBAR CONFERENCE

1 time?

2 A Yes, sir.

3 Q He had phony identification too?

4 A Yes, sir.

5 Q Took you 14 days to get out of there, didn't it?

6 A That's right, yes, sir.

7 Q Did you have to bribe someone to get out?

8 A No, sir.

9 Q Well, if you know, did they ever learn your real names?

10 A No, sir.

11 Q So you got out with them believing that you were Sergio
12 Osuna Villareal? Sorry, I just asked --

13 A They let us go but they would say that...

14 Q Go ahead.

15 A They would say that they did not believe that we were
16 those people. But the investigation deadlines were up so
17 that's why they were forced to releasing us.

18 Q That's what you were lead to believe?

19 A Well, I don't know.

20 Q Now you obviously you had travel documents in fake names,
21 passports, visas?

22 A Yes, sir.

23 Q All to help you deal drugs?

24 A Yes, sir.

25 Q You had a fake Colombian passport in the name of Elkin

SIDEBAR CONFERENCE

1 Lopez?

2 A Yes, sir.

3 Q And you've used that fake name not just on your passport
4 and visa but you've used it in other areas of your life.

5 A Yes, sir.

6 Q By the way, who is Elkin Lopez?

7 A I have no clue.

8 Q You just fabricated the name?

9 A No, Jaime Alberto was the one who got me that identity.

10 Q Your nephew?

11 A Yes, sir.

12 Q Who got you the identification for your Mexican passport
13 in the name of Sergio Osuna Villareal.

14 A Ruben Reygosa.

15 Q Did you ever get any of these fake travel documents on
16 your own or did you just purchase them?

17 A Both.

18 Q Sometimes you would apply for a travel document in a fake
19 name?

20 A Yes, sir. That's correct.

21 THE COURT: Mr. Lichtman, at a convenient time.

22 MR. LICHTMAN: Can I get 10 more minutes, Your
23 Honor?

24 THE COURT: Absolutely.

25 BY MR. LICHTMAN::

SIDEBAR CONFERENCE

1 Q Every time you applied for a fake travel document there
2 was a series of steps that you had to take?

3 A I don't know what you mean, sir.

4 Q In order to get a fake travel document you would have to
5 show up with fake identification, correct, in somebody else's
6 name not yours?

7 A That's correct, yes, sir.

8 Q And you would lie to the government officials when you
9 would submit an application for a travel document in a fake
10 name.

11 A That's correct, yes, sir.

12 Q And every time you used a travel document in a fake name
13 you were committing a crime?

14 A Yes, sir, I guess.

15 Q You purchase -- you guess or you know?

16 A I guess. Well, there is one thing that is when you're
17 actually pretending to be somebody else, that's one thing, and
18 then there's other stuff. That's not my field, I do not know.

19 Q When you were dealing drugs and traveling with phony
20 travel documentation, every time you used that phony travel
21 document you were committing a crime, weren't you, sir?

22 A Yes, sir.

23 Q You've been cooperating for five years with them, isn't
24 that true?

25 A Yes, sir.

SIDEBAR CONFERENCE

1 Q And yet you're still a little wobbly on whether or not
2 using identification, travel documents in fake names is
3 illegal?

4 A No, sir.

5 Q You purchased property in fake names?

6 A Yes, sir.

7 Q Crime or no crime?

8 A That's a crime.

9 Q And other people's names you purchased property?

10 A Yes, sir.

11 Q Crime or no crime?

12 A That's another crime.

13 Q Now were you born on May 13th, 1966?

14 A Yes, sir, that's correct.

15 Q In Colombia?

16 A Yes, sir.

17 Q But your Colombian identification documents all state
18 that you were born a year earlier in 1965, isn't that true?

19 A That is correct, yes, sir.

20 Q Because you lied and changed the year of your birth to a
21 year earlier in order get a driver's license early?

22 A Yes, sir, that's true.

23 Q And so the very first driver's license you ever got as a
24 child you committed a crime to get it?

25 A Yes, sir, that's correct.

SIDEBAR CONFERENCE

1 Q A crime involving dishonesty?

2 A Yes, sir.

3 Q And your parents knew because they obviously knew how old
4 you were in reality?

5 A Yes, sir.

6 MR. LICHTMAN: Judge, we can take a break now.

7 Thank, you.

8 THE COURT: Okay, we're going to take our lunch
9 break, ladies and gentlemen. I was premature last week at
10 this time in telling you we had something different for you,
11 this week we definitely have something different for you.

12 Please don't talk about the case during this
13 different lunch, and we'll see you back here at a quarter to
14 two.

15 (Jury exits courtroom.)

16 THE COURT: We'll have a one-hour lunch recess
17 today.

18 (Luncheon recess.)

19 (Continued on the next page.)

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CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A F T E R N O O N S E S S I O N

2 (1:45 p.m.)

3 THE COURTROOM DEPUTY: All rise.

4 THE COURT: Let's have the jury back, please.

5 (Jury enters courtroom.)

6 THE COURT: All right, everyone be seated.

7 I hope you enjoyed lunch, ladies and gentlemen.

8 THE JURY: Oh, yes.

9 THE COURT: There is not much we can do for you, but
10 we're doing what we can.

11 All right, please continue, Mr. Lichtman.

12 MR. LICHTMAN: Thank you, Judge.

13 CROSS EXAMINATION(Continued)

14 BY MR. LICHTMAN::

15 Q Mr. Cifuentes, when we took a break we were talking about
16 the driver's license, your first driver's license that you got
17 where you lied about your date of birth, correct?

18 A Yes, sir.

19 Q And you attended high school in Medellin?

20 A Yes, sir.

21 Q Did you graduate from high school?

22 A No, sir.

23 Q When did you stop school?

24 A Fourth year of high school.

25 Q So you were about 17 or 18 years old when you stopped

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 school?

2 A Yes, sir, more or less.

3 Q Now, you have no diploma from any university obviously?

4 A No, sir.

5 Q And I meant a real diploma?

6 A Yes, sir.

7 Q But you managed to buy some fake ones?

8 A Yes, sir.

9 Q You have a false -- excuse me, a fake diploma from a
10 Colombian university?

11 A Yes, sir.

12 Q Is it under your name or a fake name?

13 A Under my name.

14 Q And what was the purpose of getting that fake diploma
15 under your real name, was it to impress your parents?

16 A No, to impress my colleagues at work.

17 Q And so this was a legitimate job, or are you talking
18 work, drug dealing work?

19 A My drug trafficking work of course.

20 Q So you wanted to impress your drug dealing friends that
21 you had a university diploma?

22 A Basically to travel to different countries you need
23 documents, you need credit cards and I thought it would be
24 necessary for my travel to have a university degree.

25 Q But you said you got this university degree under your

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 real name?

2 A Yes, sir.

3 Q So in order to travel to other countries you needed
4 travel documents --

5 A Yes, sir.

6 Q -- passports, visas?

7 A Yes, sir.

8 Q So the fact that you were actually Jorge Cifuentes, had a
9 driver's license, had a birth certificate presumably under
10 your real name, you needed a fake diploma as well?

11 A That's what I did, yes, sir.

12 Q And is this the one that you paid 6.5 million pesos for?

13 A Yes, sir.

14 Q And it was for a fake business degree?

15 A Yes, sir, that's correct.

16 Q Was it from a fake university or a real one?

17 A A real university.

18 Q And you also bought a fake diploma when you were in
19 Mexico?

20 A Yes, sir.

21 Q And this is the one under the name Sergio Osuna?

22 A Yes, sir.

23 Q And was that also to impress your drug dealing friends?

24 A Yes. And to travel.

25 Q It was to help you travel under a fake name so you could

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 easier deal your drugs?

2 A Yes, sir. That's true.

3 Q And you obtained a visa under that name -- I don't mean
4 to mispronounce it -- is it Sergio Osuna?

5 A Yes, sir.

6 Q Thank you. You got a visa under that name as well?

7 A Yes, sir.

8 Q And you used all that fake identification under the name
9 Sergio Osuna to open bank accounts in that name?

10 A Yes, sir.

11 Q And you had credit cards in that fake name as well?

12 A Yes, sir.

13 Q And you lied and told people sometimes that you and
14 Sergio Osuna were actually two different people?

15 A Yes, sir, correct.

16 Q And you also used a fake name of Santiago Gonzalez?

17 A Yes, sir.

18 Q And you used many other fake names as well, I'm not going
19 to go through all of them.

20 A Yes, sir, that's true.

21 Q You would agree that every time you used a fake name that
22 was a lie, correct?

23 A Yes, sir.

24 Q And you got another fake diploma when you lived in Texas?

25 A No, sir.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 Q Do you not recall or are you certain?

2 A No, I'm sure I don't have a diploma from Texas.

3 Q You didn't get a university diploma in economics from a
4 Texas university?

5 A No, sir.

6 Q After you moved to McAllen, Texas from Mexico?

7 A No, sir, not as far as I remember.

8 Q Well maybe I can refresh your recollection. Showing
9 3500-77, if you can just look at the first paragraph. Read it
10 to yourself.

11 THE INTERPRETER: Would counsel like the interpreter
12 to read it?

13 MR. LICHTMAN: Yes, you'd have to read it to him I
14 suppose.

15 THE COURT: You have to tell her.

16 MR. LICHTMAN: Excuse me?

17 THE COURT: She's not just going to divine that, you
18 have to tell her if you want her to translate it.

19 MR. LICHTMAN: The first sentence from the
20 beginning.

21 THE INTERPRETER: Under details?

22 MR. LICHTMAN: Yes, thank you.

23 THE COURT: He meant the first and second sentence.

24 MR. LICHTMAN: It's a long sentences. I apologize.

25 THE COURT: No, it's two sentences.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 MR. LICHTMAN: Is it two? Oh, thank you, Judge.

2 The first two sentences.

3 Q Let me ask the question if I can.

4 Does that refresh your recollection that while you
5 were in McAllen, Texas you bought a fake university diploma
6 for a degree in economics?

7 A No, sir.

8 Q You were debriefed numerous times by prosecutors and
9 agents.

10 A Yes, sir.

11 Q You didn't lie to them, did you?

12 A No, sir.

13 Q Now when you were in Texas you used the name Jose Luis
14 Garcia Martinez?

15 A No, sir. Jose Luis Garcia Ramirez.

16 Q Oh, thank you.

17 And you used that fake name to purchase a home --

18 A Yes, sir.

19 Q -- open bank accounts, take credit cards out?

20 A Yes, sir.

21 Q And using those documents you applied for and received a
22 visa in that name?

23 A Yes, sir.

24 Q And that allowed you to have indefinite travel in the
25 United States from Mexico?

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A Yes, sir.

2 Q And although you lived in McAllen, Texas you continued to
3 coordinate the logistics of your planes filled with drugs
4 coming from Colombia going to Mexico on behalf of drug
5 traffickers?

6 A Yes, sir.

7 Q You obviously had no problem morally traveling around
8 America dealing drugs under a fake name with a fake visa, did
9 you?

10 A Yes, sir. No, sir.

11 Q No, sir.

12 And in McAllen in your home you once stored two tons
13 of cocaine in your house?

14 A Yes, sir.

15 Q In your guest bathroom in the center of the house you
16 fitted a large compartment hidden behind the mirror to conceal
17 money?

18 A Yes, sir.

19 Q And you only had two customers in the United States at
20 that point?

21 A Two main clients, yes, sir.

22 Q One in Houston and one in New York City, Manhattan?

23 A Yes, that's correct.

24 Q The Houston customer was a fellow named Willie?

25 A Yes, sir.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 Q Do you remember Willie's last name?

2 A No, sir.

3 Q And in early 1991 you moved to Houston from McAllen,
4 Texas?

5 A Yes, sir.

6 Q Your girlfriend was pregnant and she wanted to have the
7 baby in Houston, if you recall?

8 A Yes, sir, that's correct.

9 Q And while in Houston you visited Willie's house?

10 A Yes, sir.

11 Q That's when you saw the drug ledgers that were written in
12 your hand at his house?

13 A We did it together. I wrote.

14 Q But your handwriting was in those ledgers?

15 A Yes, sir, that's correct.

16 Q That concerned you?

17 A Yes, sir, of course.

18 Q And Willie got arrested soon thereafter by federal law
19 enforcement?

20 A Yes, that same day.

21 Q That same day.

22 And all the documents, including the drug ledgers
23 with your handwriting, were seized that day by federal law
24 enforcement?

25 A I suspect so, but I have no evidence that that's the

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 case.

2 Q Well, you received a message from Willie from prison?

3 A Yes, sir.

4 Q And the message was that if you were asked to give a
5 handwriting example that you should write with your left hand
6 instead of your right hand, your natural hand.

7 A That's correct, yes, sir.

8 Q And, in fact, soon thereafter you were arrested by
9 federal authorities on money laundering charges relating to
10 Willie's case?

11 A We were arrested at the same time at different locations.

12 Q And you received a message from his prison to your
13 prison?

14 A No, sir, we were all put together in a cell.

15 Q But you received that information to write with your left
16 hand instead of your right hand?

17 A He told me in person.

18 Q And in fact, you were required at a later time to give
19 handwriting exemplars?

20 A Yes, sir, that's correct.

21 Q And you weren't even arrested under your real name, you
22 were arrested under the fake name Jose Luis Garcia Ramirez?

23 A That's correct, sir.

24 Q And as you testified on direct, after you gave your fake
25 handwriting exemplars the charges were dismissed?

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A First they gave me bail --

2 Q Sir --

3 A -- and then they dismissed the case.

4 Q -- the question is simply, the charges were dismissed
5 after you gave the fake handwriting exemplars?

6 A Yes, sir.

7 Q Now do you think you were the first person in the history
8 of America asked to give writing exemplars that used your
9 other hand?

10 A No, I don't know.

11 Q But it worked for you, right?

12 A I assume so, yes.

13 Q You fooled federal prosecutors, right?

14 A Yes, sir.

15 Q You fooled federal agents, didn't you?

16 A Yes, sir.

17 Q Now you said that the laws were different back then,
18 didn't you say that on direct?

19 A In my -- to my understanding.

20 Q Tell me how they were different.

21 A I don't have a way to explain it because I'm ignorant
22 about the law.

23 Q Why don't you try because you talked about it on direct.
24 So explain to the jury, if you can, how the American law has
25 changed in the early '90s until now.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A The only reference I have has to do with conspiracy, but
2 it can be a misinterpretation of how the American law applies
3 in Colombia. Having to do with the criminal charge. There
4 are two different systems, there is the Roman system. So for
5 us you have a crime when they catch you with the cocaine in
6 your hands. But the laws have changed and just -- they can
7 now charge you if somebody just explains -- explains it even
8 though they may not catch you with the evidence, that's my
9 understanding. But as I said, that can be completely
10 ridiculous, I really don't know the law.

11 Q You don't know what you're talking about at all, do you?

12 MR. FELS: Objection.

13 THE COURT: Sustained.

14 A I agree with you.

15 Q Now after you finished the few years of high school in
16 1984 or so, you were very much a drug trafficker?

17 A Could you repeat, please.

18 Q By the time you graduated -- excuse me, you didn't
19 graduate high school. By 1984, you were 18 years old?

20 A Yes, sir.

21 Q And you were arrested, as you said on direct, in Colombia
22 in 1984 for a murder charge.

23 A Yes, sir.

24 Q And you claim you didn't do it.

25 A No, sir.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 Q You claim that you witnessed the murder but you didn't do
2 it.

3 A That's correct.

4 Q And you claim that you were acquitted, correct?

5 A Yes, sir.

6 Q And you spent about two years in prison regardless from
7 age 18 to 20?

8 A Yes, sir.

9 Q But one of the years that you spent in prison was on a
10 weapons charge, correct?

11 A Yes, sir, that's correct.

12 Q And you actually did possess a weapon.

13 A That's correct.

14 Q Now, you were in prison in Medellin?

15 A Yes, sir.

16 Q The name of that prison was Bellavista?

17 A Yes, sir.

18 Q A dangerous prison?

19 A Yes, sir.

20 Q And you mentioned yesterday on direct that while you were
21 in prison you were recruited on behalf of a cartel member
22 named El Mexicano?

23 A Yes, sir.

24 Q And you were recruited to kill a man named Fernando
25 Lopera?

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A That's true, yes, sir.

2 Q Were you paid for this murder contract?

3 A Yes, it was a murder contract.

4 Q How much were you paid?

5 A They did not pay me, but they offered me 15 million
6 pesos.

7 Q Now this attempted murder, because the man didn't die,
8 it's even mentioned in your cooperation agreement, correct?

9 A Yes, sir.

10 Q That you wouldn't be required to plead guilty to it.

11 A Yes, sir.

12 Q And you were debriefed on this attempted murder many
13 times by prosecutors and agents?

14 A Yes, sir.

15 Q Do you recall that not once during all of those
16 debriefings on this subject did you mention that you actually
17 were offered money for this murder?

18 A That's weird, I understand I did.

19 Q Didn't, in fact, you tell the government that you were
20 given in exchange special treatment in prison for this
21 attempted murder?

22 A I do not understand what you mean by special treatment,
23 what are you referring to?

24 Q What I'm saying is you were moved from general population
25 into a special security unit.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A Yes, sir, they did transfer me from second yard to
2 special yard.

3 Q And you were given better food and allowed to gamble?

4 A No, the food was the same. And I don't understand what
5 you mean by gamble.

6 Q You don't know what the word "gamble" means?

7 A Well in the jail there were no -- there was no gambling.
8 There was a pool table.

9 MR. LICHTMAN: 3500-96. If you can just translate
10 for him this bracketed portion -- oh, I'm sorry, Bates numbers
11 1427.

12 THE COURT: Does the interpreter understand the
13 shorthand, the Greek symbols?

14 THE INTERPRETER: I do understand some of it, Your
15 Honor.

16 MR. LICHTMAN: I would just have...

17 (Pause in proceedings.)

18 THE INTERPRETER: The interpreter is done, Counsel.

19 BY MR. LICHTMAN::

20 Q Does that refresh your recollection that you were given
21 preferential treatment due to bribing?

22 A No, sir.

23 Q And do you recall telling the government that in exchange
24 for favors from El Mexicano that you agreed to kill Lopera?

25 A No, sir. I wanted to be part of that organization.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 Q Do you need your recollection refreshed?

2 A If you consider that.

3 Q Eighty-one, page 2. If you can read paragraph 3.

4 (Pause in proceedings.)

5 Q Sir, does that refresh your recollection that in return
6 for the favor of moving you from general population to a
7 special security unit you agreed to kill Fernando Lopera?

8 A That's not what it says there, but they did switch me to
9 the other unit. That's what my -- my recollection was
10 refreshed in that sense.

11 Q Now only because you just said it, if you can read just
12 the underlined portion and tell me if that refreshes your
13 recollection that you told agents that in return for the favor
14 of moving you from general population to a special security
15 unit you agreed, after being pressured, to kill Fernando
16 Lopera?

17 MR. FELS: Objection. Asked and answered.

18 THE COURT: Sustained.

19 BY MR. LICHTMAN::

20 Q Now you testified on direct yesterday that you put
21 cyanide on which you thought were the man's arepas, is that
22 the word?

23 A Yes, sir.

24 Q And you said that he ate the wrong arepa?

25 A Yes, sir.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 Q Who ate the right one?

2 A I actually grabbed it. I asked his cook to give it to me
3 and I tossed it through the bars of the place.

4 Q Because you were concerned about hurting somebody?

5 A Correct.

6 Q You don't like hurting people?

7 A Not people who are not in my line of attack.

8 Q I'm not in your line of attack, am I?

9 A No, sir.

10 Q Thank you.

11 A You're doing your job.

12 Q This time that you spent in prison at age 18 when you
13 tried to kill a man while being wrongly accused for murder,
14 this was a harrowing experience for you?

15 A When I was recruited to do this it was really easy for me
16 to say yes I'll do it --

17 Q Sir, the question --

18 A -- but I'm going to try to do it.

19 Q Excuse me, please.

20 A I'm answering your question.

21 Q The question I asked, was the two years that you spent in
22 prison from age 18 to 20 in this very dangerous prison, this
23 was a harrowing experience for you, isn't that true?

24 A Not that much, sir.

25 Q It wasn't that bad?

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A It wasn't that horrible, sir.

2 Q Was it helped by the fact that you were having sex with
3 the wife of one of the prison guards inside your cell?

4 MR. FELS: Objection.

5 THE COURT: Sustained. Sustained.

6 MR. LICHTMAN: Basis, Judge?

7 MR. FELS: Relevance, Your Honor.

8 THE COURT: If you want a sidebar, we'll have a
9 sidebar.

10 MR. LICHTMAN: Relevance?

11 THE COURT: Yes.

12 MR. LICHTMAN: Not he was manipulating the system.

13 THE COURT: I didn't get that in the question.

14 BY MR. LICHTMAN::

15 Q When you were having sex with one of the guard's wives
16 when you were 18 years old in prison, were you manipulating
17 the prison system?

18 MR. FELS: Objection, Your Honor, relevance.

19 THE COURT: I'll allow it.

20 A Yes, sir.

21 Q And the wife of this prison guard, she caught a beating
22 from her husband when he caught her, correct?

23 MR. FELS: Objection, Your Honor.

24 THE COURT: Sustained.

25 Q You didn't mention any of that on direct examination, and

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 I didn't miss that, did I?

2 MR. FELS: Objection, Your Honor.

3 THE COURT: Sustained.

4 BY MR. LICHTMAN::

5 Q Now you claim that you actually testified in this murder
6 case when you were 18 years old.

7 A Yes, sir.

8 Q And you were acquitted?

9 A Yes, sir.

10 Q Even though you were caught with a weapon?

11 A That wasn't the weapon and I did not kill them.

12 Q You witnessed the murder, didn't you?

13 A I was in the crime scene, yes.

14 Q And you would never lie to get out of jail, correct?

15 A No, sir.

16 Q But you did bribe a Colombian official later to remove
17 your records relating to your time in the Bellavista prison
18 from the system?

19 A Yes, sir, that's true.

20 Q You even bribed a Colombian official to remove your
21 fingerprint cards from the Colombian police database?

22 A That's true, yes, sir.

23 Q And remember -- this is unrelated, but remember yesterday
24 you were speaking about that pretty blue helicopter you claim
25 to have given to Mr. Guzman?

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A Yes, sir.

2 Q And you mentioned that it crashed when the pilot tried to
3 fly it out of the hangar?

4 A Yes, sir, that's correct.

5 Q You didn't mention on direct that in fact you rolled that
6 damaged helicopter off the side of a cliff in an insurance
7 scam, did you?

8 A Well that's correct, your client gave me the money.

9 Q You didn't say that on direct, did you?

10 A The prosecutor did not ask me about that, but it's in my
11 statement.

12 Q The prosecutor didn't ask you but you're claiming that
13 Mr. Guzman was responsible for it?

14 A I was in charge of running that operation to cheat the
15 insurance and Mr. Guzman gave me the money to do so so that we
16 could get him a new helicopter.

17 Q So it's Mr. Guzman's fault that you committed insurance
18 fraud. I just asked a --

19 A No, but it benefited --

20 Q -- very straightforward question. It's Mr. Guzman's
21 fault that you committed insurance fraud is what your
22 testimony is, yes or no?

23 A It is both our fault, yes.

24 Q Thank you.

25 Now you're out of the Bellavista prison about 1986?

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A Yes, sir.

2 Q And you obviously continued your criminal activity, your
3 drug dealing with your family?

4 A Yes, sir, that's correct.

5 Q Your brother Pacho had left to live in the Dominican
6 Republic by 1986 dealing drugs?

7 A Yes, sir.

8 (Continued on the next page.)

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CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 BY MR. LICHTMAN::

2 Q You drove trucks to Ecuador for Pacho's drug trafficking
3 organization?

4 A No, sir.

5 Q You don't recall driving trucks to Ecuador for Pacho's
6 drug trafficking organization?

7 A No, sir. In what year?

8 Q About 1986 or so?

9 A No, sir, I do not remember.

10 Q I'll refresh your recollection, if I can. 3573, second
11 page, paragraph four, if you can -- excuse me, paragraph five.
12 If you can read from the top through the underlined portion.

13 (Interpreter reading for the witness.)

14 Does that refresh your recollection in addition to
15 Jorge, your brothers Fernando and Alex helped your brother by
16 driving trucks to Ecuador?

17 A No, sir, I did not drive to Ecuador.

18 Q But you were responsible for making sure that the ratio
19 and quantity of the chemicals were correct during the
20 processing of cocaine?

21 A Yes, sir, that's correct.

22 Q And while you were in Colombia working with Pacho you met
23 Don Efra?

24 A Yes, sir.

25 Q His real name was Efrain Hernandez?

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A Yes, sir.

2 Q He was a big cocaine dealer in Cali?

3 A Yes, sir.

4 Q You lived with him for two months, you became his
5 bodyguard?

6 A Yes, sir.

7 Q He trusted you very much?

8 A Yes, sir.

9 Q And asked you to go to Mexico to help run his operation
10 there?

11 A Yes, sir.

12 Q He was sending drugs from Colombia to Mexico for final
13 destination in America.

14 A Yes, sir, that's correct.

15 Q And while in Mexico you met El Mayo?

16 A Yes, sir.

17 Q You also met his sons including Vicente?

18 A Yes, sir.

19 Q And you became very close to all of them, didn't you?

20 A Yes, sir.

21 Q And Don Efra owned planes that were used to transport the
22 cocaine from Mexico to Colombia.

23 A That's correct, yes, sir.

24 Q Your brother Fernando began working for Don Efra in 1989?

25 A Yes, sir.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 Q He became, Fernando became, Don Efra's general manager?

2 A That's correct.

3 Q If you know, Fernando is very trusted by Don Efra?

4 A Yes, sir.

5 Q Now if you recall, in 1989 you traveled to Victoria in
6 Tamaulipas, Mexico?

7 A Yes, sir.

8 Q With Hernando Restrepo?

9 A No, on orders of Don Hernando Restrepo, who was Efrain
10 Hernandez's partner.

11 Q Did you travel to Tamaulipas with Restrepo?

12 A No, sir.

13 Q But you went there to steal a drug route from other drug
14 dealers, didn't you?

15 A Those were the orders I received from my boss.

16 Q That's what you went to Tamaulipas for, to steal a drug
17 route from other drug dealers, that was the question.

18 A Yes, sir, correct.

19 Q When you said that you did it on orders, I asked you if
20 that's what you did. You said you did it on orders from
21 someone else. Are you suggesting that a don't have any blame
22 for that?

23 A I am to blame. I just wanted to clear that up.

24 Q Thank you. To steal a drug route that means to basically
25 finding the people that controlled the area where the drugs

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 would move.

2 A Simply to meet the person who was doing it.

3 Q And bribe him.

4 A No.

5 Q Well, you didn't just meet him, you had to get the route
6 from the other drug dealers, correct?

7 A Mr. Attorney, if you allow me to explain to you what a
8 route is.

9 Q No.

10 A Okay.

11 Q During the trip you bribed people for information?

12 A Yes, sir.

13 Q To find out who the point of contact was in Tamaulipas?

14 A That's correct, yes, sir.

15 Q Eventually you received a police escort to the home of
16 Police Commander Arturo Cuellar?

17 A Yes, sir.

18 Q He was the one, this police commander, controlled the
19 transportation of drugs through Tamaulipas?

20 A Yes, sir, that's correct.

21 Q And this was 1989?

22 A Yes '88 beginning of '89.

23 Q Now you also told the Government that in 1989 you were an
24 electrical engineering student?

25 A No, sir.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 Q When were you an electrical engineering student?

2 A Never.

3 Q Do you need your recollection refreshed?

4 A No, sir. I never said that.

5 Q You never told an agent that you were an electrical
6 engineering student?

7 A No, no, sir. I don't know anything about electrical
8 engineering.

9 Q I believe that. If an agent came in here and testified
10 that you told him that you were an electrical engineering
11 student, he would be lying?

12 MR. FELS: Objection.

13 THE COURT: Sustained.

14 Q You were working for Don Efra in 1989?

15 A That's correct, sir.

16 Q That was around the time you also moved to Texas to deal
17 drugs from there.

18 A Yes, sir.

19 Q A busy year, 1989, for you -- withdrawn.

20 In 1990 or so you were introduced to Humberto Ojeda?

21 A Yes, sir.

22 Q He became your drug trafficking partner and also your
23 great friend?

24 A Yes, sir.

25 Q In fact, he and you were so close that you named one of

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 your sons Humberto Jr.?

2 A No.

3 Q Is one of your sons name Humberto?

4 A No, sir.

5 Q You didn't tell an agent that you named one of your sons
6 Humberto?

7 A No, sir.

8 Q But you did say on direct examination that he was like
9 your brother?

10 A Yes, sir.

11 Q And with Ojeda you transported cocaine from Colombia to
12 Mexico, which then went to the United States until 1997?

13 A Yes, sir.

14 Q You made a huge amount of money with Ojeda during this
15 period, correct?

16 A That's correct, yes, sir.

17 Q You received cocaine in Sinaloa, Nayarit and Jalisco,
18 Mexico.

19 A Yes, sir.

20 Q That cocaine crossed the border into Nogales, Texas?

21 A Part of the cocaine.

22 Q Between 1991 and 1995 the cash flow of your business with
23 Ojeda was approximately \$100 million per month?

24 A For all the organization.

25 Q You were still in the your 20s.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A Yes, sir.

2 Q Now, you told the Government that you and Ojeda each
3 withdrew approximately \$2 million per month for yourselves.

4 A I was making that at the beginning.

5 Q You told the Government that you and Ojeda withdrew
6 approximately \$2 million per month for over five years?

7 A I'm not clear on that.

8 Q 3500, 77, page three, paragraph eight, if you can read
9 the underlined portion. Let me know if that refreshes your
10 recollection that you told the Government between 1991 and
11 1995 that the cash flow of the business with Ojeda was
12 approximately \$100 million per month, that you each withdrew
13 approximately 2 million per month for yourselves?

14 MR. FELS: Objection to the form of the question.

15 THE COURT: Sustained. He gave you the first part.

16 MR. LICHTMAN: I withdraw that.

17 Q Does the underlined portion -- excuse me.

18 If you could read that, if that refreshes your
19 recollection, that you told the Government that you withdrew,
20 you each withdrew, approximately \$2 million per month for
21 yourselves.

22 (Interpreter reading for the witness.)

23 A Approximately, sir. So that doesn't refresh my
24 recollection.

25 Q During this time period you purchased a \$2.2 million

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 house in Key Biscayne, Florida?

2 A 4 million.

3 Q 4 million, excuse me.

4 You did this under the fake name Jose Luis Garcia
5 Ramirez.

6 A Yes, sir.

7 Q In 1990.

8 A Yes, sir.

9 Q You were 24 years old?

10 A Yes, sir.

11 Q This is when you just started with Ojeda, this wasn't in
12 the middle or near the end, this was the beginning.

13 A Yes, sir.

14 Q The fact is you had a lot of money before you even met
15 Ojeda.

16 A Yes, sir.

17 Q Just from drug dealing.

18 A Yes, sir.

19 Q Not from green energy.

20 A No, sir.

21 Q Not from saving the pygmies in the Amazon.

22 A No, sir.

23 Q The indigenous I meant, not the pygmies.

24 Ojeda was a loyal friend to you, wasn't he?

25 A Yes, sir.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 Q But he wasn't educated.

2 A No, sir.

3 Q You described him as showy, ostentatious?

4 A No, sir, he was a simple guy.

5 Q He liked fancy cars and a helicopter?

6 A Yes, sir.

7 Q Do you know many regular guys that have a helicopter?

8 A I don't know, sir.

9 Q Among many other reasons because of Ojeda's ostentatious
10 nature, Mayo Zambada killed him in 1987?

11 A Because he didn't follow Amado Carrillo's call.

12 Q He didn't follow Amado Carrillo's call to come meet with
13 him?

14 A Yes, sir.

15 Q And then Carrillo died?

16 A Yes.

17 Q It upset Mayo, according to what you said on direct
18 examination, that Ojeda was building a mansion.

19 A That's what Mayo Zambada told me.

20 Q That's one of the reasons he killed him, because of his
21 showy ways, ostentatious ways?

22 A Yes, sir.

23 Q Do you see how many times I had to ask that question
24 until you finally answered it yes, that was like six times.

25 MR. FELS: Objection.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 THE COURT: Sustained.

2 Q Do you believe that when we talk, it's much more
3 difficult than when they were asking you questions?

4 MR. FELS: Objection.

5 THE COURT: Sustained.

6 Q You didn't know who killed -- excuse me, sir, over here.
7 You didn't know --

8 A I'm listening to the interpreter.

9 Q You didn't know who killed Ojeda when he died, did you?

10 A Can you repeat that.

11 Q When Ojeda was killed, you didn't know who was his
12 murderer was, did you?

13 A I had very strong suspicions.

14 Q That was Mayo Zambada?

15 A Yes, sir, that's correct.

16 Q You were very close to Mayo Zambada and his family?

17 A Yes, sir.

18 Q Remember when you told the story on direct about how you
19 met Chapo in 2002 or 2003?

20 A Yes, sir, that's correct.

21 Q You claimed that you were concerned about your safety
22 because after all Ojeda had been killed and he was your
23 partner.

24 A That's correct, that's right, sir.

25 Q Mr. Ojeda died in a very bad manner, correct?

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A He was murdered.

2 Q I know he was murdered; his murder was particularly bad,
3 correct?

4 A Shot.

5 Q It upset you how he was killed, didn't it?

6 A Yes, sir.

7 Q He was in a gas station with his two young children in
8 the car?

9 MR. FELS: Objection as to relevance.

10 THE COURT: Sustained.

11 MR. LICHTMAN: Judge, I can approach and explain?

12 THE COURT: I'm going to take your word for it. He
13 may answer.

14 A Can you repeat the question?

15 Q Ojeda was with his young children at a gas station, the
16 kids were in the car?

17 A With one of his children, with Valentino.

18 Q With you one of his children. And Mayo's gunmen told him
19 to stop?

20 A Yes, sir, Alonso.

21 Q And the gunman shot the car 40 times with the child
22 inside?

23 A It was an armored car.

24 Q But one of the bullets went through the lock and hit
25 Ojeda in the heart?

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A That's correct, yes.

2 Q And Ojeda somehow drove to his house and crashed his car
3 into a tree?

4 A He was 30 meters away from his house.

5 THE COURT: Mr. Lichtman are you wrapping this up?

6 MR. LICHTMAN: Yes.

7 Q Ojeda's wife came outside and rescued the child?

8 A That's correct.

9 Q Ojeda was dead?

10 A Yes, and the child was locked inside the car.

11 Q That angered you very much?

12 A Yes.

13 THE COURT: Let's have a sidebar.

14 (Continued on the next page.)
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SIDEBAR CONFERENCE

1 (Sidebar conference.)

2 THE COURT: I just want to make sure, I don't know
3 where your going. There is it two ways you could be going.
4 One is where you're not supposed to, one is to bring out that
5 that he retaliated. You're not supposed to. The other is to
6 suggest that he didn't retaliate and is therefore lying, that
7 would be equally bad.

8 MR. LICHTMAN: Because I'd be it gilding the lily.

9 THE COURT: If it's not one of those, what are you
10 going for?

11 MR. LICHTMAN: I want to show even though was
12 disgusted with Mayo, he continued to deal drugs.

13 THE COURT: What does that show?

14 MR. LICHTMAN: It shows that all he cares about is
15 making money from drugs, not the dead friend.

16 THE COURT: What does that show?

17 MR. LICHTMAN: He puts drug dealing above any other
18 morale.

19 THE COURT: It doesn't show that he puts drug
20 dealing above telling the truth on this witness stand here and
21 now.

22 MR. LICHTMAN: It does. It shows all he cares about
23 is making money, and he has simply no morals despite the
24 claims he's the good one.

25 THE COURT: The only thing that matters is whether

SIDEBAR CONFERENCE

1 he's given truthful testimony now or whether he's lied in the
2 past.

3 MR. LICHTMAN: He's willing to put other things
4 above truth telling in order to get what he wants.

5 THE COURT: How does this get above truth telling?

6 MR. LICHTMAN: He doesn't care about anything other
7 than what he wants.

8 THE COURT: Because he's an immoral person it
9 shows --

10 MR. LICHTMAN: This is a man he said was his
11 brother.

12 THE COURT: It's a very bad act. I'm agreeing with
13 you.

14 MR. LICHTMAN: Not just the act, the act is -- he
15 didn't commit the act.

16 THE COURT: I understand.

17 MR. LICHTMAN: The point is his brother was killed
18 by this man in this horrible manner and still deals drugs with
19 him.

20 THE COURT: I mean it's a bad act that after the guy
21 he regarded as his brother was killed he went right back to
22 drug dealing.

23 MR. LICHTMAN: That's what I'm trying to establish.

24 THE COURT: You don't get bad acts. You only get
25 the bad acts if they suggest a character for not being

SIDEBAR CONFERENCE

1 truthful.

2 MR. LICHTMAN: I think if you're willing to do that
3 to your brother's memory, you're to lie on the stand.

4 THE COURT: What you're saying is any time someone
5 is really, really bad --

6 MR. LICHTMAN: No.

7 THE COURT: -- the jury can draw the conclusion that
8 they put, they subordinate truth, to anything else. That's
9 too far disconnect.

10 MR. LICHTMAN: Judge, the fact that the man had sex
11 with the guard's wife in prison, does not mean that he's
12 willing to do anything on the stand. The point I'm making
13 here, is that all this man cared about is making money from
14 drug dealing; and therefore, he right now is on the stand and
15 he will say anything and everything to get what he wants now,
16 which is to get out of jail.

17 THE COURT: You have to show that through
18 inconsistent statements or history of fabrication, which you
19 have shown a history of fabrication. This does not contribute
20 to that. I'm not going to let you go any further.

21 (End of sidebar conference.)

22 (Continued on the next page.)

23

24

25

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 (In open court.)

2 THE COURT: Mr. Lichtman, you can have one question
3 to tie it up. If you want another sidebar I'll tell what you
4 the question is. You told me.

5 MR. LICHTMAN: How about I guess it and if I'm wrong
6 you'll tell me.

7 THE COURT: Go ahead.

8 BY MR. LICHTMAN::

9 Q Despite the fact that Mayo had killed your brother, you
10 still wanted to deal drugs with him?

11 MR. FELS: Objection.

12 THE COURT: I'll allow it.

13 A Could you repeat that please?

14 Q Yes. Despite the fact that Mayo had killed your brother
15 in a horrific fashion, you were still willing to deal drugs
16 with him afterward?

17 A Are you referring to Humberto Ojeda? He's not my
18 brother.

19 Q You referred to him --

20 A He was just like my brother.

21 Q You referred to him as if he was your brother.

22 THE COURT: Rephrase the question, use the name.

23 Q Even though Mayo had killed Ojeda, someone that you
24 referred to on direct as your brother, in the most horrific
25 manner, you were still willing to deal drugs with Mayo

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 afterward?

2 A Yes, sir.

3 Q And while you long suspected that Mayo had killed Ojeda,
4 you asked Mr. Guzman to set up a meeting with Mayo Zambada for
5 you?

6 MR. FELS: Objection.

7 THE COURT: It's the last question of this that I'm
8 going to allow. You've gone this far, I'll allow it.

9 A Could you repeat the question?

10 Q You asked Mr. Guzman to set up a meeting with Mayo
11 Zambada so you could learn if it was safe for you to continue
12 deal drugs in Mexico.

13 A No, sir. I asked him to get me a meeting with Ojeda's
14 murderer; and obviously, that was with Mayo Zambada.

15 Q You wanted to meet Mayo Zambada to learn if it was safe
16 for you to be in Mexico to deal drugs after your partner had
17 been killed by him.

18 A That's correct, yes, sir.

19 THE COURT: Let's move on.

20 Q And Mayo, as you testified on direct is that Mayo Zambada
21 said you were family?

22 A That's correct, yes, sir.

23 Q And Judge, if I can ask one -- no, I'm not going to do
24 that Judge.

25 Now, you testified on direct that the reason you

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 requested this meeting with Mr. Guzman was because you were
2 concerned about your safety and that you wanted to deal drugs
3 in Mexico, correct?

4 A Yes, sir, that's correct.

5 Q But the fact is when you were debriefed by the Government
6 initially you claimed that the main reason you reached out to
7 Mr. Guzman in 2003 was not to resume drug trafficking but to
8 get Mr. Guzman's protection and to find out who had killed
9 Ojeda?

10 A I said that the main reason was for safety and to traffic
11 drugs.

12 Q That's two reasons, correct?

13 A That's correct, yes, sir.

14 Q Didn't you initially tell the Government that the main
15 reason for reaching out to Mr. Guzman in 2002 was not to
16 resume drug trafficking but only regarding your safety.

17 A Yes, sir, that's correct.

18 Q You shaded the truth to the Government initially, didn't
19 you?

20 A Well, at the meeting I realized that there were other
21 reasons that were my motive. And that at one point in time
22 they were not clear to me. I did not want to accept them.
23 And I'm referring to my own greed. But I did not hide any
24 information regarding the crime.

25 Q You lied initially when you spoke to the Government about

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 your motives for this meeting with Mr. Guzman in 2002, didn't
2 you?

3 A No, sir. They continued to be the same two reasons.

4 Q The Government did not tell you later that you had lied
5 to them initially?

6 A No, sir.

7 Q You never learned from them that you had mislead them
8 initially about your main reason for going to see Mr. Guzman
9 in 2002?

10 A Yes, sir, about the main reasons.

11 Q The main reason you told them when you were debriefed
12 initially for your meeting with Mr. Guzman was your concern
13 over your personal safety in Mexico?

14 A Yes, sir, that's correct.

15 Q But the fact is there was a second reason, not just your
16 safety, it was because you wanted to continue to deal drugs in
17 Mexico.

18 A That's correct, yes, sir.

19 Q And you started cooperating in 2014?

20 A Yes, sir.

21 Q In 2016 you signed a sworn affidavit in connection with
22 Mr. Guzman's extradition here?

23 A Yes, sir.

24 Q And you signed it under penalty of perjury, correct?

25 A Yes, sir.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 Q You took an oath, like you took today before you started
2 testifying, to tell the truth, correct?

3 A Yes, sir.

4 Q And in that affidavit you said in 2003, I requested a
5 meeting with Joaquin Guzman the leader of the Sinaloa Cartel
6 in order to talk about my concern for my personal safety,
7 correct?

8 A Yes, sir, that's correct.

9 Q That was in June 23, 2016; is that correct?

10 A That's correct, yes.

11 Q You let that stay for all those years, correct?

12 A Yes, sir.

13 Q Because you wanted to hide the fact that you were a
14 greedy drug dealer, correct?

15 A No, sir. In the questioning I realized that my main
16 motive was agreed. But the facts remain the same, the cocaine
17 is the same, the crime is the same.

18 Q You signed an affidavit --

19 A There were two reasons.

20 Q -- you signed an affidavit under oath that the reason you
21 went to visit Mr. Guzman was for your concern over your
22 personal safety, correct?

23 A Yes, sir, and also to traffic in drugs.

24 Q In your affidavit you said that the reason you went to
25 see Mr. Guzman was over concern of your personal safety.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 Period. End of statement. Correct?

2 A That's correct, yes, sir.

3 Q The Government got mad about that, they called you on
4 that, didn't they?

5 A Yes, sir.

6 Q They didn't rip up your cooperation agreement that you
7 signed a year a full year and change earlier, did they?

8 A Not yet, sir.

9 Q Not yet, right?

10 A Not yet.

11 Q Do you think they ever will?

12 A I hope not.

13 Q Now you claim that you were the -- after your friend
14 Ojeda died you said, that you were tired from narcotics
15 trafficking.

16 A I took a distance from the direct activities.

17 Q You were still dealing drugs, you just were paying for it
18 as opposed to doing the day to day, correct?

19 A That's correct, yes, sir.

20 Q So you were still dealing drugs, you weren't retired.

21 A That's correct, yes, sir.

22 Q If we can get back to Don Efra, he actually retired from
23 dealing drugs in 1996?

24 A Yes, sir.

25 Q He did it --

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 A He was killed.

2 Q He was killed. He did it to focus on his legitimate
3 business dealings, that's why he retired?

4 A Yes, sir.

5 Q But it was a short retirement because your brother,
6 Fernando, killed him in 1996?

7 A That's correct, yes, sir.

8 Q Don Efra, you were his bodyguard at one point, correct?

9 A Yes, sir, correct.

10 Q He gave you a big start in this business of yours,
11 correct?

12 A Yes, sir.

13 Q You knew that Fernando was going to kill him before he
14 did it, didn't you?

15 A I asked him for the favor to not do it.

16 Q You knew about it beforehand and you didn't stop it, did
17 you?

18 A I tried.

19 Q You never told the Government in any of your debriefings
20 that you tried to stop this murder, did you?

21 A I guess I did, in fact I did mention I left the country
22 because of that.

23 Q You said you left the country because you were afraid of
24 the violence that was going to occur afterward, correct?

25 A I do not understand.

CIFUENTES VILLA - CROSS - MR. LICHTMAN

1 Q You moved --

2 A What date are we talking about?

3 Q You moved to Australia before Fernando killed Don Efra,
4 didn't you?

5 A That's correct.

6 Q You knew Fernando was going to kill Don Efra and you may
7 be killed in response?

8 A Yes, sir.

9 Q Sir, I'm going to ask you again, you never told the
10 Government that you tried to stop this murder?

11 A I don't know, but either way I could not stop it.

12 Q You didn't want to stop it, did you?

13 MR. FELS: Objection.

14 THE COURT: Last question on this.

15 Q Now you went to Australia to avoid the fallout from the
16 murder of Don Efra by your brother, you traveled under a fake
17 name of course, correct?

18 A Yes, sir.

19 Q Are you --

20 THE COURT: Mr. Lichtman --

21 Q -- are you saying you had no control over your brother?

22 THE COURT: -- at a convenient time, which is not in
23 the middle of a question.

24 MR. LICHTMAN: This is convenient.

25 THE COURT: Are you sure?

PROCEEDINGS

1 MR. LICHTMAN: Yes.

2 THE COURT: Let's take our 15-minute break. See you
3 back here at 3:30.

4 (Jury exits.)

5 MR. LICHTMAN: I'm only going to four because they
6 need to bring in another witness.

7 THE COURT: Is four enough time to get this person
8 on direct and cross?

9 MS. GOLDBARG: It's law enforcement. It's one
10 seizure, about 20 minutes.

11 MR. LICHTMAN: That's two hours, Judge.

12 MR. PURPURA: It may be cross too.

13 THE COURT: I'm worried about the cross.

14 MR. LICHTMAN: Do you want me to stop at ten of?

15 THE COURT: I understand -- it's fine with me. We
16 can break at four and take this witness out of turn. I want
17 to make sure everyone has allotted enough time if the witness
18 has travel obligations and can't come back next week. You
19 decided what you want to do and we'll reconvene and make a
20 decision at 3:30.

21 MS. PARLOVECCHIO: Yes, your Honor thank you.

22 (Brief recess.)

23 THE COURT: Let's have the jury.

24 (Jury enters.)

25 THE COURT: Everyone may be seated.

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 Ladies and gentlemen, we are going to again
2 interrupt the testimony of Mr. Cifuentes. We have another
3 travel schedule that we're trying to accommodate, so the
4 Government is going to call another witness now. Then we'll
5 get back to Mr. Cifuentes either this afternoon or Monday.
6 Government is calling...

7 MS. GOLDBARG: The Government is calling Cliffton
8 Harrison.

9 COURTROOM DEPUTY: Remain standing and raise your
10 right hand.

11 (Witness takes the witness stand.)

12 CLIFFTON MONTGOMERY HARRISON, called as a witness, having been
13 first duly sworn/affirmed, was examined and testified as
14 follows:

15 THE WITNESS: I do.

16 COURTROOM DEPUTY: State your name.

17 THE WITNESS: Cliffton Montgomery Harrison,
18 C-L-I-F-F-T-O-N, M-O-N-T-G-O-M-E-R-Y, H-A-R-R-I-S-O-N.

19 MS. GOLDBARG: May I inquire, your Honor?

20 THE COURT: You may.

21 DIRECT EXAMINATION

22 BY MS. GOLDBARG::

23 Q Mr. Harrison, good afternoon.

24 A Good afternoon.

25 Q What do you currently do for a living?

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 A I'm currently in training to be a Diplomatic Security
2 Service Agent.

3 Q Is that with the Department of State?

4 A It is.

5 Q How long have you been with the Department of State?

6 A Since October of this year.

7 Q Immediately prior to October of 2018, what did do you?

8 A I was an active duty officer in United States Coast
9 Guard.

10 Q How long you were an active member of the United States
11 Coast Guard?

12 A Fifteen years.

13 Q When did you start with the United States Coast Guard?

14 A 2003.

15 Q You left when?

16 A I left, August 31 was my last day of active duty.

17 Q What is your current status with the Coast Guard?

18 A Separated, waiting to joining the Reserves.

19 Q What did you do before you joined the United States Coast
20 Guard?

21 A I was a college student.

22 Q Can you very briefly take the jury through some the
23 training that you received when you became a member of the
24 Coast Guard?

25 A So you start out in a basic training. After basic

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 training I went to Officer Candidate school. After Officer
2 Candidate school I went to the Boarding Officer school.
3 Boarding Officer school is the law enforcement specific
4 training, that's where we're taught how to safely get on board
5 a vessel, control crew members, look for signs of smuggling
6 and test narcotics.

7 Q At the time you separated from the United States Coast
8 Guard, what rank did you have?

9 A Lieutenant.

10 Q Directing your attention to March of 2007, where were you
11 assigned?

12 A I was a Deck Watch Officer above the Coast Guard Cutter
13 SHERMAN.

14 Q What is a Cutter?

15 A The Coast Guard term for any vessel larger than 65 feet.

16 Q Specifically March 18, 2007, what happened on that day,
17 if anything?

18 A That was the day that we conducted the boarding of the
19 MOTOR VESSEL GATUN.

20 Q MOTOR VESSEL GATUN, what are you referring to?

21 A A large ship that's propelled by engines.

22 Q Where did you first encounter the motor vessel catune?

23 A On the Pacific side of Panama, so south.

24 MS. GOLDBARG: Your Honor, if I may for the witness
25 although, I don't if it would expedite matter, I've shown them

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 to defense counsel. I believe there is no objection.

2 THE COURT: Recite the numbers.

3 MS. GOLDBARG: All in the 203 series: 203-51,
4 203-5, 203-30, 203-2, 203-43, 203-31, 203-1, 203-41, 203-35,
5 203-33, 203-4, 203-8, 203-10, 203-9, 203-44, 203-11, 203-12,
6 203-13, 203-14, 203-16 for the photographs.

7 Then for videos it's 203-17 and 203-46.

8 THE COURT: Those are all admitted into evidence.

9 (Government Exhibit 203-51, 203-5, 203-30, was
10 received in evidence.)

11 (Government Exhibit 203-2, 203-43, 203-31, was
12 received in evidence.)

13 (Government Exhibit 203-1, 203-41, 203-35, was
14 received in evidence.)

15 (Government Exhibit 203-33, 203-4, 203-8, was
16 received in evidence.)

17 (Government Exhibit 203-10, 203-9, 203-44, was
18 received in evidence.)

19 (Government Exhibit 203-11, 203-12, 203-13, was
20 received in evidence.)

21 (Government Exhibit XN , was received in
22 evidence.)

23 (Government Exhibit 203-17, 203-46, was received in
24 evidence.)

25 (Government Exhibit 203-17, 203-46, was received in

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 evidence.)

2 BY MS. GOLDBARG::

3 Q Showing what you is in evidence Government's Exhibit 51
4 what are we looking at here?

5 A This would be the location that we initially boarded the
6 MOTOR VESSEL GATUN.

7 Q When you say you boarded the MOTOR VESSEL GATUN, what do
8 you mean?

9 A In this photo you see the white vessel is the Coast Guard
10 Cutter SHERMAN, the boat I was assigned. If you look at this
11 picture you see the orange dot, about midway on the white
12 boat, those are small boats, we have two of them. We use
13 those to get on board from the white boat to the orange boats.
14 Then we got over to the MOTOR VESSEL GATUN.

15 We gave them orders. The Master of the GATUN was
16 given orders to lower their ladder, which we climbed on, then
17 got on board.

18 Q You're describing it events from Government's Exhibit
19 203-5, correct?

20 A Yes.

21 Q What happened once you got on board the GATUN?

22 A Upon getting aboard the vessel, I went directly to the
23 bridge, which is on the blue boat if you look at the white
24 area where the windows are, that's the bridge, that's where
25 you drive the vessel from.

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 Q Mr. Harrison, can you circle that please on the screen in
2 front of you. What happened when you got to the bridge?

3 A We made contact with the Master of the vessel.

4 Q Master of the vessel, is there another term for that?

5 A The Captain, Man in Charge.

6 Q Did you speak with the Captain?

7 A I did.

8 Q What language did the Captain speak?

9 A Spanish.

10 Q Do you speak Spanish?

11 A I do.

12 Q After speaking to the Captain in Spanish, what did you
13 do?

14 A After that, the boarding team and myself began the actual
15 searching process.

16 Q Since we have 203-5 on the screen, can you describe what
17 kind of vessel the MOTOR VESSEL GATUN is?

18 A Yes. It's a coastal freighter, approximately 300 feet in
19 length. They are typically used to carry small amounts of
20 cargo close to shore.

21 Q Do you see anything green on the GATUN in this
22 photograph?

23 A I do.

24 Q What are those?

25 A Those are shipping containers.

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 Q Just to make sure the record is clear, this happened on
2 March 18, 2007; is that correct?

3 A Yes.

4 Q After you talked to the Captain, what did you do?

5 A After that we begin doing our search. So our team of
6 Coast Guard members split up amongst different parts of the
7 boat to make sure it was safe. We go through systematically
8 searching the GATUN.

9 Q Any crew members on GATUN?

10 A Yes.

11 Q What happened to them?

12 A As part of the boarding procedures, all crew members are
13 mustered in one part of the vessel so they can be better
14 controlled. Mustering is gathering everyone in one place. We
15 have all the crew members come to one area, then we have
16 security over-watch on them.

17 Q You were able to determine the nationality of the crew
18 members aboard the GATUN?

19 A We were. It was a mix of Panamanian and Mexican.

20 Q How did you determine the nationalities?

21 A Paperwork on board, passports, identification documents.

22 Q After you mustered the crew and did a search, what did do
23 you next?

24 A Once we're going through the vessel we get to the
25 containers.

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 Q Those are the green items on this Government's Exhibit
2 203-5?

3 A Yes.

4 Q What happens with you get to the containers?

5 A So the containers were held in place with chains. We
6 popped the lock on one of the containers. It was only able to
7 be opened about that far apart.

8 Q Is that about 2 feet that you're indicating with your
9 hands?

10 A Approximately.

11 Q Then what happened when you were able to open the door
12 about 2 feet?

13 A Being one of the thinner people on the team we
14 approximated I would be able to get into the container. So I
15 took off my body armer, handed over my shotgun, put an oxygen
16 sensor around my neck, and grabbed the camera and climbed into
17 the contain.

18 Q Why did you put an oxygen monitor on yourself before the
19 container?

20 A Anytime you go into a confined space you can't ascertain
21 the amount of air in an area you, by policy, have to have an
22 oxygen sensor with you. If you get to an area with low levels
23 of oxygen it will alert, so you know when to get out of there.

24 THE COURT: Why couldn't you open it any wider?

25 THE WITNESS: The way the container was placed on

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 deck in order to stop the container from moving they had
2 chains that were holding it into place.

3 BY MS. GOLDBARG::

4 Q Now there were more than just how many containers were on
5 the ship?

6 A Four I believe in total.

7 Q I'm going to show you Government's Exhibit 203-30. What
8 are we looking at here?

9 A So this is one of the containers that had the actual
10 manifest cargo on board. What you're looking at is legitimate
11 cargo.

12 Q You just testified that you were able to get one of them
13 opened about 2 feet, then you were the skinny one chosen to go
14 inside is that what you saw the first one you went in?

15 A No.

16 Q Showing you what is in evidence as Government's Exhibit
17 203-2. What are we looking at here?

18 A So this is a container, the first container we opened
19 that was filled to the top with suspected contraband.

20 Q You were the one that crawled through there?

21 A Yes.

22 Q Showing what you is in evidence as Government's Exhibit
23 203-31, what are we looking at there?

24 A This shows you how high the suspected contraband was
25 piled in the container, nearly touching the ceiling of the

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 contain.

2 Q How did you get around inside?

3 A The only way for me to fit was to low crawl in that small
4 space you see. So low crawling is basically on your stomach,
5 hand-over-hand, pulling yourself along.

6 Q How comfortable is that?

7 A Not comfortable at all.

8 Q Showing you 203-31, what are we looking at there?

9 A This is more photos of the suspected contraband.

10 Q Once you discovered these objects inside the container
11 what did you do?

12 A The next thing I did was remove one of the bales from the
13 container to ascertain what was inside.

14 Q What did you find inside of the containers -- the bales,
15 I'm sorry.

16 A Inside those burlap sacks were small bricks.

17 Q Showing you what is in evidence as Government's Exhibit
18 203-41, what are we looking at here?

19 A This is one of the bricks we pulled from one of the
20 burlap sacks.

21 Q What did you do with this brick that you took out of the
22 burlap sack?

23 A We made a small incision in order to test some of the
24 substance that was inside.

25 Q Were you present for that test?

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 A Yes.

2 Q Showing you what is in evidence as 203-35, what is
3 happening here?

4 A We're conducting a narcotics identification kit test.

5 Q Any of your body parts in this photo?

6 A The glove in the right-hand corner is mine.

7 Q Can you circle it, please?

8 A It doesn't seem to be working -- there it goes.

9 Q What was the result of this preliminary test?

10 A The test came back positive for cocaine.

11 Q Looking at 203-33, what do we see here?

12 A This is a positive result narcotics identification kit.

13 Q So now that you've tested one of the bricks inside of the
14 burlap sack, what do you do next?

15 A So then the next step is to account for all of the
16 contraband we've discovered.

17 Q Showing you in evidence 203-4, what are we looking at in
18 this photograph?

19 A So this is the off-load of the contraband. So from here
20 you can see the totality of the burlap sacks are removed.

21 Q There are two red items kind of going in a diagonal, do
22 you see those?

23 A Yes.

24 Q What are those?

25 A Cranes used for taking on and dropping off cargo.

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 Q Can you circle them for the jury, please?

2 A (Indicating.)

3 Q Those are the two vertical, diagonal red shapes. Were
4 those working on the GATUN?

5 A They were not.

6 Q Looking at Government's Exhibit 203-38, you said that you
7 removed the bales, how many bales did you remove from this
8 container?

9 A It was over 700.

10 Q How long did it take you and the rest of the boarding
11 crew to remove 700 bales from this container?

12 A It was an overnight evolution of several hours.

13 Q How did you do it, showing you 203-10, what are we
14 looking at here?

15 A We formed what you call a daisy chain. It's just manual
16 labor. Everybody spaces themselves evenly. You just pass
17 bales from one person to another and then we try and stack
18 them evenly to get an accurate account.

19 Q Showing you also Government's Exhibit 203-9, what are we
20 looking at here?

21 A This is another aspect of the stacks of bales.

22 Q You removed all 700 bales from the container, what did
23 you do next?

24 A So once all of the contraband was accounted for, we made
25 our reports to our higher-ups, then we took full control of

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 the MOTOR VESSEL GATUN.

2 Q What does that mean?

3 A As you can see in this image, this is what an escort
4 looks like.

5 Q This is Government's Exhibit 203-5.

6 A So at this time the Coast Guard is actually driving the
7 MOTOR VESSEL GATUN.

8 Q At some point in time are you driving the GATUN?

9 A Yes.

10 Q What happens to the 700 bales that you found aboard the
11 GATUN?

12 A Those bales are taken over to the Coast Guard Cutter
13 SHERMAN to be locked down for evidentiary purposes.

14 Q How did you get the 700 bales from the GATUN that's in
15 the forefront to the Cutter SHERMAN? Was that an easy fete?

16 A It was not. It had to be done loads at a time on those
17 same orange points I pointed out earlier. That boat had to
18 make dozens of trips back and forth, bales lowered by hand,
19 then they would come back, load them up again and go back
20 over.

21 Q How long did it take for you and the rest of your team to
22 transport the 700 bales from the GATUN to the Cutter SHERMAN?

23 A It was several hours.

24 Q Looking at Government's Exhibit 203-11, where are the
25 bales of cocaine now?

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 A Now they are on board of Coast Guard Cutter SHERMAN.

2 Q What is the happening to the bales now?

3 A They are being counted for storage.

4 Q Showing you 203-12, what do we see here?

5 A This is the manner in which we take accountability.

6 Q Are they grouped 100 at a time?

7 A Yes.

8 Q Showing you 203-13, what do we see here?

9 A This is the process. We would get everything on deck,
10 then we would organize them. That's how they would make
11 accurate counts.

12 Q Last, 203-14?

13 A Same process.

14 Q That's someone standing in a sea of bales holding up a
15 clip board, correct?

16 A Yes. It's our policy that we don't show faces in these
17 pictures.

18 Q 203-16, what are we looking at here?

19 A This is the totality of the contraband that was seized
20 from the MOTOR VESSEL GATUN.

21 Q The 700 bales that were taken off the container?

22 A Over 700, yes.

23 Q I would like to play two clips from 203-17, please.

24 Mr. Harrison, could you narrate for us in this first clip what
25 we're seeing?

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 A This is an overflight from a Coast Guard Helo, the
2 SHERMAN escorting the GATUN.

3 Q What is a Helo?

4 A Helicopter.

5 Q What are we looking at about 17 seconds?

6 A Here you're seeing the MOTOR VESSEL GATUN under Coast
7 Guard control with bales on deck.

8 Q Now the second clip, right about three seconds, what are
9 we looking at here?

10 A Same video, different aspect. You have the Coast Guard
11 Cutter SHERMAN on the back.

12 Q At ten seconds, what are we looking at?

13 A The totality of the contraband on deck of the MOTOR
14 VESSEL GATUN.

15 Q Once you were able to remove the bales of cocaine from
16 the GATUN to the Cutter SHERMAN, where do you go next, what
17 happens?

18 A Once the bales are taken below deck and locked under key
19 and guard, then we take the MOTOR VESSEL GATUN to be turned
20 over to Panama. It was a Panamanian flagged vessel. And the
21 contraband and the ship return to home port in Alameda,
22 California.

23 Q Where is Alameda, California?

24 A Near San Francisco, California.

25 (Continued on next page.)

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 DIRECT EXAMINATION

2 BY MS. GOLDBARG::

3 Q Now when you get to Panama, what do you leave in Panama?

4 A In Panama we leave the MOTOR VESSEL GATUN and a
5 representative sample of the contraband that we seized.

6 Q What about the crew members that were aboard the GATUN?

7 A The crew members were turned over to Panamax DEA. And so
8 the Panamanians went to Panama and the rest went to DEA.

9 Q Now how long did it take you to get from Panama to your
10 base in Alameda, California?

11 A It was about a week.

12 Q And what happened once you got to your base in Alameda,
13 California?

14 A We conducted an offload of all of the contraband.

15 Q Was there a video taken of that?

16 A There was.

17 Q If we can play Government's Exhibit 203-46. This is sped
18 up, correct?

19 A Yes.

20 Q If you can play 203-46 and if I can ask you Mr. Harrison
21 to please narrate.

22 A So you can see this is the sped up video so the daisy
23 chain that I mentioned before is the same process we had to
24 use to move all the contraband from the lower part of the
25 Coast Guard Cutter SHERMAN on to shore.

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 Q So here at 18 seconds, what are we seeing?

2 A So this is the bail that you saw pulled from what was
3 once a sonar room on the Sherman, it's pulled out and this is
4 the route that a bail has to take in order to get off the ship
5 and then on to shore to be stacked and accounted for.

6 Q And so this is an actual live daisy chain that we're
7 looking at?

8 A This is a daisy chain, yes, ma'am.

9 Q Sped up. We're at minute and 46. And each one of the
10 700 plus bails of cocaine were taken off of the Cutter Sherman
11 in this way?

12 A Yes.

13 Q What's happening to the bails once they're taken off the
14 Cutter Sherman?

15 A They are being stacked and accounted for, so every row
16 should have the same amount --

17 Q A minute -- I'm sorry, sir. So at a minute 14 we see at
18 the bottom or actually right now at 1:20, what are we looking
19 at there?

20 A This is the organization of the bails. They're starting
21 to prepare the bails for shipment.

22 Q So what's happening to the bails right now?

23 A Right now they're being placed on pallets and they're
24 being packaged for transportation.

25 Q How are they packaged in the pallets?

CLIFFTON HARRISON - DIRECT - MS. GOLDBARG

1 A So that they put the bails on the pallets, they strap
2 them down with Saran wrap --

3 Q At two minutes.

4 A -- as you see here.

5 Q I'm sorry. At two minutes of the video what are we
6 looking at there?

7 A This is how the package the contraband for travel. On
8 a -- via semi trucks and eventually aircraft.

9 Q Now at two minutes 15 what's happening to the cocaine at
10 this point in time?

11 A So this is a police escort to the airport of the
12 contraband.

13 Q Is that the tractor trailer that we see in the rearview
14 mirror --

15 A It is.

16 Q -- at about two minutes 30 seconds?

17 A Yes.

18 Q And at about two minutes 40 seconds, what do we see
19 there?

20 A Here we see the aircraft that will be used to transport
21 the cocaine, that is a Coast Guard C130 aircraft.

22 Q How many C130 aircraft do we see in there?

23 A Two I believe.

24 Q That's at about two minutes 50 seconds.

25 What's happening to the cocaine that was on board

HARRISON - CROSS - PURPURA

1 the tractor trailers?

2 A It's going to be loaded on the aircraft and taken for
3 transfer to DEA.

4 Q At three minutes 15 seconds, what are we seeing?

5 A This is being prepped to be put into the aircraft.
6 You're looking at loadmasters making sure that everything is
7 put properly into the plane to not cause any incidents.

8 Q And as we see here in three minutes 33 seconds those are
9 the pallets, and now three minutes 37 seconds, what are we
10 looking at there?

11 A That's the aircraft taking off.

12 Q Did you have any further involvement in this
13 investigation Mr. Harrison?

14 A No. I completed my case package and turned it in.

15 Q In the 15 years that you were with the United States
16 Coast Guard, how does this seizure rank amongst those?

17 A This is the -- remains the largest maritime drug seizure
18 by the Coast Guard.

19 MS. GOLDBARG: The government has no further
20 questions.

21 THE COURT: Any cross?

22 MR. PURPURA: Yes, thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. PURPURA::

25 Q Good afternoon, Mr. Harrison.

HARRISON - CROSS - PURPURA

1 A Afternoon.

2 Q Sir, back in 2007 what was your rank in the Coast Guard?

3 A I was an ensign.

4 MR. PURPURA: And if I may have the Government's
5 Exhibits.

6 MS. GOLDBARG: Sure.

7 BY MR. PURPURA::

8 Q Just showing you Government's Exhibit GX203-5, which is
9 in evidence. I don't think you mentioned, what was the --
10 what's the basis the Coast Guard has to board a ship at sea in
11 this particular case?

12 A So this vessel was boarded using a bilateral agreement
13 with the nation of Panama.

14 Q Which means --

15 A Which means --

16 Q -- what?

17 A -- that we have agreements with countries that under
18 certain circumstances we can board vessels flying under their
19 flag or sailing under their flag.

20 Q This vessel had an appropriate Panamanian flag; is that
21 correct?

22 A Yes, sir, they are flying a Panamanian flag.

23 Q And without getting any detail at all, just what were the
24 special circumstances in this particular case in March of 2007
25 for the United States Coast Guard to interdict this particular

HARRISON - CROSS - PURPURA

1 vessel?

2 MS. GOLDBARG: Objection.

3 THE COURT: I need a sidebar.

4 (Sidebar conference.)

5 (Continued on the next page.)

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SIDEBAR CONFERENCE

1 THE COURT: It just seems to me that Mr. Purpura may
2 have a theory as to why this is with the scope of cross
3 examination.

4 MR. PURPURA: Well, I appreciate that, Your Honor.

5 THE COURT: I couldn't think of one, but I thought
6 maybe you did.

7 MR. PURPURA: Well, first of all, I'm assuming I
8 believe it's going to be an innocuous answer, that there is
9 some sort of basis that they have and I think that would be
10 helpful to the jury since we talk about interdicting these
11 vessels at sea there's usually a reason for that as they know
12 from their own experience when vehicles get stopped locally
13 there is usually a reason for that. I was going to bring that
14 out just generally as to why the ship is being stopped.

15 MS. GOLDBARG: This witness would not have any
16 knowledge of that.

17 MR. PURPURA: If he doesn't, he says it. Okay. Why
18 don't I just follow up and say it's my understanding there was
19 a basis, you don't have knowledge, is that fair?

20 MS. GOLDBARG: Again, I don't see the relevance of
21 that.

22 MR. PURPURA: Oh.

23 THE COURT: It's a question, I always allow one
24 question unless it's really harmful. This is not harmful.
25 Let's do this.

SIDEBAR CONFERENCE

MR. PURPURA: Thank you.

(End of sidebar conference.)

(Continued on the next page.)

HARRISON - CROSS - PURPURA

1 (In open court.)

2 BY MR. PURPURA::

3 Q Mr. Harrison, can we assume that there was an appropriate
4 reason but based on your position as an ensign you may not
5 know what the reason was for the interdiction?

6 A That is accurate, sir, I do what I'm told directly.

7 Q You and me both usually. Thank you.

8 Now, let me just -- this seizure you indicated was,
9 obviously, the largest seizure that you were involved in and
10 to your knowledge the largest seizure the United States Coast
11 Guard is involved in as well; is that correct, sir?

12 A Yes, sir.

13 Q We can see from all those photographs there was just a
14 huge amount of cocaine, fair to say, sir?

15 A Yes, sir.

16 Q Now, I know this is -- strike that. You met with
17 government counsel just a short time, I'm sure, just to
18 prepare your testimony, is that fair to say?

19 A Yes.

20 Q You've reviewed these photographs and the videos prior to
21 today's date; is that correct, sir?

22 A Yes.

23 Q Do you know how many times these photographs and these
24 exhibits were used in other cases?

25 MS. GOLDBARG: Objection.

HARRISON - CROSS - PURPURA

1 THE COURT: Sustained.

2 MR. PURPURA: Maybe we should have a sidebar.

3 THE COURT: Sure, if you want, that's fine.

4 (Sidebar conference.)

5 (Continued on the next page.)

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SIDEBAR CONFERENCE

1 MR. PURPURA: Your Honor, the relevance of this
2 information coming in is that they're going to suggest that
3 Joaquin Guzman was responsible for the cocaine in this
4 particular shipment. I can tell the Court that I've been in
5 at least two other cases where this boat has been used to show
6 that Beltran-Leyvas are the responsible party and that the
7 Norte Valle cartel is responsible for --

8 THE COURT: The origination.

9 MR. PURPURA: Yes. And the Norte Valle in another
10 case -- is it Restrepo? I forgot his name. I'm sorry.

11 MR. BALAREZO: Carlos Patino.

12 MR. PURPURA: Carlos Patino Restrepo, in his case
13 here in this district nine years ago was used again to
14 demonstrate that the Norte Valle was the supplier of this
15 cocaine.

16 MS. GOLDBARG: I don't believe that's accurate.
17 There is also --

18 MR. PURPURA: I was the lawyer in that case so was
19 Mr. Balarezo and we have notes on it. We have actually the
20 government's discovery letters on it.

21 MS. GOLDBARG: Again, I don't think he would have
22 any firsthand knowledge of that so I don't think he has a
23 basis to answer that question. And I also -- there has been
24 evidence already presented in trial through one of the first
25 witnesses Jesus Zambada who testified about the seizure

SIDEBAR CONFERENCE

1 belonging to members of the Sinaloa cartel, which included the
2 defendant as well as the Beltran-Leyvas and the Zambadas.

3 THE COURT: I don't want to get into the defense's
4 substantive theory of this, I will only note that the Sinaloa
5 cartel it's like, think of OPEC, it's a bunch of people that
6 get together, that's what I'm hearing in the evidence, so the
7 fact that it was used for somebody else does not mean it
8 excludes the defendant. I think without passing upon whether
9 the defendant's theory is viable as a substantive matter, and
10 I'm not doing that at all, I just am not seeing the relevance
11 to the fact it was used in some other case for purposes we
12 don't know.

13 On the other hand, I agree with you this witness is
14 going to say, I don't know probably, unless he was the guy
15 that testified in the other cases, but if he says, yes, I was
16 the guy who used it in two other cases, I'm not going to let
17 you say who was charged in that case, who did you testify
18 against.

19 MR. PURPURA: I understand.

20 THE COURT: If you want this little piece --

21 MR. PURPURA: I'll go quick, just that piece.

22 MS. GOLDBARG: Your Honor, I do believe he will
23 testify that he was called to testify in Tampa, Florida for
24 the crew members, nothing related to the case that was in the
25 Eastern District of New York, nothing related to the

SIDEBAR CONFERENCE

1 Beltran-Leyvas --

2 MR. PURPURA: I'm sure --

3 MS. GOLDBARG: If you let me finish. Nothing
4 related to Beltran-Leyva, so the relevance of him having been
5 called in the Middle District of Florida to testify against
6 the 10 crew members that were arrested is not relevant to, I
7 don't believe, to his line of inquiry here.

8 THE COURT: I'll let you ask him on redirect, that
9 was the case against the crew members, right.

10 MS. GOLDBARG: Okay.

11 MR. PURPURA: I'll make it clear in my question I'm
12 not referencing the crew members. That will not be an issue.

13 THE COURT: Okay.

14 MS. GOLDBARG: Fine.

15 MR. PURPURA: I'll move on, Judge.

16 THE COURT: Okay.

17 (End of sidebar conference.)

18 (Continued on the next page.)

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HARRISON - CROSS - PURPURA

1 (In open court.)

2 BY MR. PURPURA::

3 Q Mr. Harrison, let me be a little clear with my question.

4 I'm not going to reference of whether you have been ever

5 called to testify or these photographs have been admitted in

6 cases involving crew members, I'm asking you, have you ever

7 been called to testify involving, let's say sources of supply

8 of this cocaine to larger cartel members, have you?

9 A Have I been -- I've been called to testify prior but I'm
10 not sure what you mean by supply.

11 Q Well, aside from the call you might have had in Tampa,
12 Florida, have you ever been called in or been prepared to
13 testify in the United States District Court for the District
14 of Columbia for these particular photographs?

15 A I believe I was called upon, I wasn't identified to
16 testify but there was a discussion in the District of Columbia
17 at one point.

18 Q Also how about a prior discussion in the Eastern District
19 of New York, right here, and/or in Long Island?

20 A I don't recall that specific.

21 Q Fair enough. Let me -- final couple of questions.
22 Government's Exhibit GX203-13. What we're looking at is the
23 outside bails; is that correct?

24 A That is correct.

25 Q Now did the United States Coast Guard put these

HARRISON - CROSS - PURPURA

1 particular markings on the bails, 20, 20, it's probably a 20
2 here upside down?

3 A No, sir, they did not.

4 Q How many of the bails, to your knowledge, were marked
5 with the number 20?

6 A We did not take note of that, sir. I have no idea how
7 many had the number 20 on them.

8 Q Did you take note whether any of the bails or the kilos
9 themselves had the markings of 888 on it, triple eight?

10 A I do not recall nor was I looking for specific numbers on
11 bails, sir.

12 Q And how about any pictures such as a picture of a fish?

13 A No, sir. We only opened up one bail minimally as to not
14 disturb evidence.

15 Q And you don't know whether anyone else followed up on any
16 of the markings, if any, in this particular case?

17 MS. GOLDBARG: Objection.

18 THE COURT: Well, you can ask if he knows.

19 BY MR. PURPURA::

20 Q Yes, that's what I said, do you know.

21 A I do not, sir.

22 MR. PURPURA: Thank you. No further questions.
23 Have a good weekend.

24 THE COURT: Any redirect?

25 MS. GOLDBARG: No redirect.

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1 THE COURT: All right. You may step down.

2 THE WITNESS: Thank you, Your Honor.

3 (Witness excused.)

4 THE COURT: I think we're going to stop. Ladies and
5 gentlemen, a couple of things. Number one, just in case
6 you're wondering, we're still making really good progress. It
7 might not seem it to you, but I think you're going to be here,
8 no guarantees, but I think you're going to be here a lot less
9 than we thought you were going to be here when we started so
10 you know. That's the first point.

11 The second point is stay away from media coverage,
12 do not do any research in this case, do not talk to anybody
13 about the fact that you're sitting as a juror in this case,
14 don't communicate over social media, don't use any search
15 engines to find out things. All the information you're
16 supposed to have to decide this case we're going to give you
17 in this courtroom and we have to make sure you don't bring in
18 any from any place else.

19 Now other than that, have a very good weekend. We
20 will see you on Monday morning.

21 (Jury exits courtroom.)

22 THE COURT: Be seated, please. Just a couple of
23 housekeeping things I want to go over.

24 First, Mr. Lichtman, any nonbinding, good faith
25 estimate about how long you're going to be Monday morning?

PROCEEDINGS

1 MR. LICHTMAN: Two or three hours. It depends
2 largely on him, as you can see.

3 THE COURT: I don't know if that's right. I think
4 for the most part he was answering the questions, not all of
5 them but most of them.

6 MR. LICHTMAN: Maybe two hours, Judge.

7 THE COURT: Second, I wanted to ask, has the
8 government been able to fill in the end of next week with
9 properly disclosed witnesses or does it look like we're not
10 going to make it through the entire week.

11 MS. PARLOVECCHIO: Your Honor, we might need tonight
12 to figure that out. Just the length of cross is going longer
13 than had originally been represented, so we'll go over that
14 tonight. We can give a call to Ms. Clarke to let her know to
15 give the Court a sense and we can let defense counsel know.

16 Just to put on the Court's radar, we do have another
17 travel issue, unfortunately. On Monday we have law
18 enforcement officers traveling from Ecuador who have to get on
19 and off on Monday due to their visa issues. So it's quite
20 possible if Mr. Lichtman sticks to his estimate that we can
21 get them all on and off without having to take them out of
22 order, but that was something I wanted to put on the Court's
23 radar.

24 THE COURT: Well, I think you were wise not to start
25 this witness at four because I don't think we would have

PROCEEDINGS

1 finished him if we started at four and you may want to keep
2 going out of turn and delay the cross-examination on Monday
3 and get these two other witnesses out of the way if they're
4 short and you're definitely going to be ready for late
5 morning.

6 MR. LICHTMAN: Judge, I'm not going to take the
7 entire day with this witness and I --

8 THE COURT: You want to do it.

9 MR. LICHTMAN: Chopping it up isn't helpful, it
10 slows down the momentum.

11 THE COURT: I agree with that. We will do the best
12 we can, but please try to be as efficient as you can because
13 we will have to cut you off, we have to get these witnesses
14 on.

15 MR. LICHTMAN: Judge, I looked at what I have left,
16 I don't think it's that great.

17 THE COURT: Okay. All right. And then the third
18 thing I wanted to cover -- hang on one second. There's filing
19 deadlines tonight. The government has some things due.

20 MS. PARLOVECCHIO: Yes.

21 THE COURT: That's not what I wanted to cover. The
22 final thing I wanted to cover was I wanted to rule on the
23 local Rule 23.1(c) issue. The government has asked me to
24 admonish defense counsel not to violate that rule. I'm not
25 really inclined to do that. First of all, the only defense

PROCEEDINGS

1 counsel who have been accused of violating the rule,
2 potentially, are Ms. Colon and Mr. Balarezo. I listened to
3 the interview that Ms. Colon gave, I really don't see it as a
4 rule violation.

5 Mr. Balarezo's tweets displaying his indefatigable
6 sense of humor come closer to doing that. I think,
7 Mr. Balarezo, at least one of those tweets it seemed to me it
8 could create a substantial likelihood that it would interfere
9 with a fair trial, with the process of a fair trial. I've
10 already told you you've had one instance of conduct that I
11 didn't approve of. I can't say that about these because I
12 don't think you violated the rules, but I will tell you you've
13 got to keep it more in check and be a little more careful. I
14 don't want to admonish any lawyers, I don't want to sanction
15 any lawyers, but I will if I have to and I don't think the
16 defendant should feel they can do and say anything because
17 there are restrictions on them in the local rules. I'm not
18 going to enhance those restrictions, I'm just saying
19 everybody, both sides, be a little careful.

20 MR. BALAREZO: Your Honor, if -- I'm sure the
21 government has noticed I've limited to my tweeting to Donald
22 Trump and the Barcelona Soccer clubs, so it shouldn't be an
23 issue. But I would like to know which is the one that the
24 Court is talking about so I have an idea which tweet is the
25 offensive tweet.

PROCEEDINGS

1 THE COURT: They were all arguable, some were worse
2 than others, but I'm not finding you violated it, I don't
3 think you did in the tweets, but I guess I'm just going to say
4 generally be careful, that's all.

5 MR. BALAREZO: I understand, Your Honor.

6 THE COURT: All right. I think that's all I've got.
7 Anyone else have anything?

8 MS. PARLOVECCHIO: Briefly, Your Honor, you
9 mentioned some of the filing deadlines that we have this
10 evening. The government had filed a motion docket number 491
11 last week and I just want to put on the Court's radar that we
12 anticipate calling some witnesses related to that motion at
13 the end of --

14 MR. PURPURA: We can't hear a word you're saying.

15 THE COURT: What she says is that the pending motion
16 in limine is going to pertain to witnesses called at the end
17 of next week so I really have to rule on it sooner than that.
18 I take that point and I will do that.

19 MS. PARLOVECCHIO: Thanks.

20 THE COURT: Anything else? Okay, have a good
21 weekend everybody.

22 (Whereupon, the trial adjourned at 4:20 p.m. to
23 resume Monday, December 17, 2018 at 9:30 a.m.)
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25

1 I N D E X

2 WITNESS PAGE

3 JORGE MILTON CIFUENTES VILLA
4 DIRECT EXAMINATION BY MR. FELS 3018

5 TODD SMITH
6 DIRECT EXAMINATION BY MR. FELS 3049
CROSS-EXAMINATION BY MR. PURPURA 3062

7 CLIFFTON MONTGOMERY HARRISON
8 DIRECT EXAMINATION BY MS. GOLDBARG 3143
CROSS-EXAMINATION BY MR. PURPURA 3161

9 I N D E X

10 EXHIBITS

11 GOVERNMENT PAGE
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12 703-A 3032
703A-3 3033
13 703A-2 3034
609K 3056
14 212-1 3056
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15 212-9 3058
212-2 3060
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20 203-17, 203-46 3146

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1 I, RIVKA TEICH, hereby certify that:

2 (A) The foregoing pages represent an accurate and complete
3 transcription of the entire record of the proceedings before
4 the UNITED STATES DISTRICT COURT for the EASTERN DISTRICT OF
5 NEW YORK, JUDGE BRIAN M. COGAN PRESIDING, in the matter of
6 UNITED STATES OF AMERICA V. JOAQUIN GUZMAN LOERA, 09-CR-466,
7 held on December 13, 2018;

8 And (B) these pages constitute the original transcript of the
9 proceeding.

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12

Rivka Teich, CSR, RPR, RMR, FCRR
Official Court Reporter
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